

STATE OF INDIANA ) IN THE FULTON COURT  
 )  
 ) SS:  
COUNTY OF FULTON ) CAUSE NO.

RICHARD O’NEILL )  
 )  
Petitioner, )  
 )  
vs. )  
 )  
FULTON COUNTY AREA PLANNING COMMISSION, )  
and DATA CENTER ORDINANCE REVIEW )  
COMMITTEE, )  
 )  
Respondents. )

**COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF**

Richard O’Neill, by counsel, for his Complaint for Declaratory Judgment and Injunctive Relief, state as follows:

**INTRODUCTION**

This is an action for declaratory judgment pursuant to Ind. Trial Rule 57 and IC 34-14-1-1 that the Fulton County Data Center Ordinance Review Committee (hereafter “DCORC”) is violating Indiana’s Open Door Law (hereafter “ODL”) by holding committee meetings which had not been noticed and do not allow the public to attend. As part of the Plaintiff’s request for declaratory judgment, he is also seeking preliminary injunctive relief and all other equitable and legal relief.

**PARTIES**

1. Plaintiff, Richard O’Neill is an individual with a principal place or residence in Fulton County.

2. The Fulton County Area Planning Commission (hereafter “APC”) is an advisory planning board with an address of 125 East 9<sup>th</sup> Street, Rochester, Indiana 46975.

3. The DCORC is an advisory committee formed by the APC to research, evaluate, and recommend potential amendments to the APC’s data center ordinance with an address of 125 East 9<sup>th</sup> Street, Rochester, Indiana 46975.

### **JURISDICTION AND VENUE**

4. This is an action for declaratory judgment pursuant to Indiana Rule of Trial Procedure 57 and Ind. Code § 34-14-1-1 for the purpose of determining an actual controversy between the parties. Plaintiff also seeks further relief on such declaratory judgment pursuant to Ind. Code § 34-14-1-8.

5. Fulton County is a preferred venue under Rule 78(A)(5) because the principal office of both the APC and DCORC is located in Fulton County.

### **BACKGROUND**

6. The APC is thirteen (13) member advisory board that meets monthly and is charged with promoting the orderly development of Fulton County Indiana.

7. The APC was established under IC 36-7-4 and prepares development plans, approves subdivisions and makes recommendations to local legislative bodies.

8. On March 30, 2026, the APC met in a special meeting.

9. The only business on the agenda was the formation of a DCORC. *See the agenda attached as “Exhibit I.”*

10. At the March 30, 2026, meeting, the APC passed resolution 03302026, which states in relevant part:
- a. Indiana Code 36-7-4-407 authorizes the Commission to establish special committees for the purpose of study and reporting on matters relevant to the work of the Commission; and
  - b. A data center facility would have significant economic, infrastructure, environmental, and quality of life impacts on Fulton County and its residents; and before making any further recommendations regarding the permitting of a data center facility, the Commission deems it advisable to conduct through study of the advisability and feasibility of permitting such development; and
  - c. The Commission believes that an advisory committee would be the appropriate body to undertake such a study to report its findings and recommendations to the Commission.
  - d. The resolution also provides that the DCORC is a nine (9) member board.
  - e. The DCORC was established to research, evaluate, and recommend potential amendments to the Area Plan Commission's data center ordinance to protect public safety, infrastructure capacity, fiscal responsibility, environmental stewardship, and community compatibility, while remaining legally defensible and administratively enforceable.
  - f. The Committee shall meet as frequently as necessary to fulfill its duties. The Committee's meetings will not be open to the public, as the committee is not a "governing body" pursuant to I.C. 5-14-1.5-2(b)(3). *A copy of the resolution dated March 30, 2026, is attached as "Exhibit 2."*

## COUNT I DECLARATORY JUDGMENT

11. Respondents incorporate the allegations of rhetorical paragraphs 1-10 as if restated herein fully.
12. The APC is a governing body as defined by Ind. Code § 5-14-1.5-3.
13. The DCORC is a governing body as defined by Ind. Code § 5-14-1.5-3.
14. The ODL, subject to limited exceptions, applies to all meetings of the governing bodies of public agencies. Ind. Code § 5-14-1.5-3(a). What constitutes a public agency is governed by statute. Ind. Code § 5-14-1.5-2(a)(1)(7). Additionally, the ODL defines “governing body.” Ind. Code § 5-14-1.5-2(b).
  15. The ODL includes three definitions of “governing body”:
    - (1) A public agency that:
      - (A) is a board, a commission, an authority, a council, **a committee**, a body, or other entity; and
      - (B) takes **official action** on public business.
    - (2) The board, commission, council, or other body of a public agency which takes official action upon public business.
    - (3) Any committee appointed directly by the governing body or its presiding officer to which authority to take official action upon public business has been delegated. (*Emphasis Added*)
  16. The APC is a public agency for purposes of the ODL; and thus, is subject to the requirements of Ind. Code § 5-14-1.5-2. Moreover, the governing bodies of APC are governing bodies under the ODL. See Ind. Code § 5-14-1.5-2(b). As a result, unless an exception applies, all meetings of qualifying boards, commissions, councils, **committees** or other bodies must be open at all times to allow members of the public to observe and record. (*emphasis added*)
  17. The ODL requires **public agencies** to conduct and take official action openly, unless

otherwise expressly provided by statute, so the people may be fully in-formed. Ind. Code § 5-14-1.5-1. As a result, the ODL requires all meetings of the governing bodies of public agencies to be open at all times to allow members of the public to observe and record the proceedings. *See* Ind. Code § 5-14-1.5-3(a).

18. The DCORC was directly appointed to **advise** the APC on the Data Center Ordinance.

19. The DCORC was formed for a specific purpose: “research, evaluate, and recommend potential amendments to the APC’s data center ordinance.”

20. “Official action” means to: receive information; deliberate; make recommendations; establish policy; make decisions; or take final action. *See* Ind. Code § 5-14-1.5-2(d).

21. Based on the purposes stated in its own resolution, the APC has authorized and tasked the DCORC to take official action in its meetings.

22. Based on Ind. Code § 5-14-1.5-2(d), the stated purpose of the DCORC falls within the statutory definition of “official action.” They are obtaining information, deliberating and make recommendations regarding a new Data Center Ordinance for Fulton County.

23. “Public business” means any function upon which the public agency is empowered or authorized to take official action. Ind. Code § 5-14-1.5-2(e). If a governing body is delegated authority to take official action on its agency’s public business, it satisfies the definition of Indiana Code section 5-14-1.5-2(b).

24. The DCORC is empowered to receive information, deliberate, and make recommendations to the APC and the Commissioners.

25. The DCORC is empowered to make these recommendations on the new Data Center Ordinance, a function upon which the APC is empowered or authorized to take official action.

26. The APC has authorized and tasked the DCORC to act on “public business” as

defined above.

27. The APC cannot outsource its work to a third-party group of designees as an end-around to the Open Door Law.

28. The DCORC met on April 8, 2026, in secret, without any notice.

29. The April 8, 2026, DCORC meeting was closed to the public.

30. A second meeting was held on April 8, 2026, after the DCORC meeting at the building where the DCORC meeting occurred.

31. DCORC members were secretly sent out a separate door from normal entry and exit door.

32. On June 1, 2022, the Public Access Counsel wrote an opinion regarding a similar tactic employed by the Madison County Government with regards to an ARPA Committee. *A copy of that opinion is attached as "Exhibit 3."*

WHEREFORE, Plaintiff respectfully requests this Court:

1. entering judgment in favor of Petitioner;
2. determine that the Fulton County Area Plan Commission's determination in resolution 03302026 is that the DCORC is not a governing body is void;
3. determine that the DCORC is a governing body pursuant to Ind. Code § 5-14-1.5-2;
4. determine that the DCORC is a public agency pursuant to Ind. Code § 5-14-1.5-2
5. determine that the Fulton County Area Planning Commission has authorized and tasked the DCORC to take official action on public business in its meetings;
6. determine that the DCORC is subject to the Indiana ODL;
7. determine that the DCORC has violated the Indiana ODL;

8. determine that any DCORC meetings moving forward must comply with the Indiana's ODL
9. determine that the DCORC must provide notice of its meetings;
10. determine that the Ordinance Committee must hold public meetings as defined under the Indiana ODL; and
11. provide any and all other appropriate relief in the premises.

### **COUNNT II - Injunctive Relief**

33. Petitioners incorporate paragraphs 1-32 of their Petition for Declaratory Judgment and Injunctive Relief.

34. As shown above, Respondents' actions, if not enjoined, will circumvent Indiana law; and

35. The result will be prejudicial to Petitioner and other Fulton County residents.

36. Plaintiffs are entitled to a preliminary injunction enjoining the DCORC from continuing to meet in secret until such time as this Court can render a judgment on Petitioners Complaint for Declaratory Judgment.

37. Respondents' actions have caused and will continue to cause substantial, immediate, and irreparable injury and loss for which Petitioner has no adequate remedy at law.

WHEREFORE, Petitioner, by counsel, request the entry of injunctive relief, as provided above, and all other just and proper relief.

WE SOLEMNLY SWEAR OR AFFIRM, UNDER PENALTIES FOR PERJURY, THAT  
THE ABOVE FACTUAL ALLEGATIONS ARE TRUE TO THE BEST OF OUR  
KNOWLEDGE AND BELIEF.



---

Rick O'Neill

Respectfully submitted,

/s/ Lauren R. White

Lauren R. White, Atty. No.: 35078-48  
2629 Lindberg Road  
Box 2  
Anderson, Indiana 46012  
(765) 325-4787  
lauren@whitelegalservicescom