



December 29, 2005

Virginia Perry
6467 E. Hadley Road
 Mooresville, IN 46158

Re: Formal Complaint 05-FC-248; Alleged Violation of the Access to Public Records Act by the Morgan County, Madison Township Trustee

Dear Ms. Perry:

This is in response to your formal complaint alleging that the Morgan County, Madison Township Trustee (“Trustee”) violated the Access to Public Records Act (“APRA”) by failing to provide public records that you requested within a reasonable time.

BACKGROUND

On December 2, 2005 you filed a formal complaint with the Office of the Public Access Counselor. Your complaint was assigned formal complaint number 05-FC-248. You stated that on August 15, 2005 you made a written request for copies of employee time log sheets showing each employee’s daily “in and out signature.” You indicate that you received a timely response that stated, “we are working on your request and will notify you when the material is available.” You allege that as of the date of your complaint, December 1, 2005, you had not received the records.

My staff attorney spoke with Rodger Birchfield, the Trustee, via telephone on December 2, 2005. He indicated that he had forgotten about the records request and would provide you with the records the following week.

On December 12, 2005 you left a voicemail message for my staff attorney indicating that you had not been notified that the records were ready to be picked up. Rather, the fire chief handed you the records at a holiday party at the fire station on December 11, 2005.

ANALYSIS

The public policy of the APRA states that “(p)roviding persons with information is an essential function of a representative government and integral part of the routine duties of public officials and employees, whose duty it is to provide the information.” Ind. Code 5-14-3-1. Any person may inspect and copy the public records of any public agency, except as provided in section 4 of the APRA. IC 5-14-3-3(a).

The APRA does not specify a time for production or inspection of responsive records, but this Office has stated that records must be produced within a reasonable time of the request. Often, this Office is asked to make a determination as to the reasonableness of the time for production by a public agency. What is a reasonable time period under one circumstance may not be reasonable under other conditions. Production need not materially interfere with the regular discharge of the functions and duties of the public agency. IC 5-14-3-7(a). The determination of what is a reasonable time for production, therefore, depends upon the public records requested and circumstances surrounding the request.

In this instance the Trustee did not provide the records for nearly four months after the request was received. The only reason for the delay is that the Trustee forgot about the public records request. The production time was not reasonable under these circumstances. Additionally, the Trustee should have notified you when the records were ready for you to pick up.

CONCLUSION

For the foregoing reasons, I find that Morgan County, Madison Township Trustee failed to produce the requested records within a reasonable time after receiving the request.

Sincerely,

Karen Davis
Public Access Counselor

cc: Rodger Birchfield