

December 12, 2007

Christine Brown  
215 North 2<sup>nd</sup> Street  
Boonville, Indiana 47601

*Re: Formal Complaint 07-FC-353; Alleged Violation of the Access to Public Records Act by the Town of Chandler*

Dear Ms. Brown:

This advisory opinion is in response to your formal complaint alleging the Town of Chandler ("Town") violated the Access to Public Records Act ("APRA") (Ind. Code 5-14-3) by denying you access to records. I have enclosed a copy of the Town's response to your complaint for your reference. In my opinion the Town has not violated the APRA.

#### BACKGROUND

In your complaint you allege you submitted to the Town on October 23, 2007 a request for access to a number of records. You allege that you received no response and so at the November 5 meeting of the Town Board, you inquired about the status of the request. You allege that you ultimately received some of the requested records, but some are still outstanding. You filed this complaint on November 26.

The Town responded to your complaint by letter dated December 11 from attorney S. Anthony Long. Mr. Long had previously sent a letter to my office regarding this issue, before he was informed that you had filed a complaint. In that November 29 letter, Mr. Long indicated that the Town had received extensive information requests from you. Mr. Long enclosed a copy of the request and explained that the Town had provided you with copies of almost all of the records requested. He further indicated that the one category of records not yet provided is the town ordinances. He explained that the Town is currently codifying its ordinances. The project should be done by the end of the year, and at that time you will have access to all ordinances.

In his December 11 letter, Mr. Long affirmed that the Town has provided you with the records you requested. Also listed in your request are several questions, and Mr. Long submits that the Town is not required by the APRA to answer those questions. Regarding the subsection under "Fire" labeled "Run Information," Mr. Long indicates he cannot ascertain what you are

seeking. Regarding your request for a letter, Mr. Long asserts that the APRA does not require the Town to create the letter you request. Regarding your request for town budgets, Mr. Long indicates that the current budget is available at the office for inspection and copying. Mr. Long contends that your request as it relates to budgets is not particular, so the Town does not know exactly what you seek. Regarding your request for “actual money paid out to date and to whom,” Mr. Long contends that this is not a particular request. He suggests that if you provide further information regarding the specific records you seek, the Town will comply with your request.

## ANALYSIS

The public policy of the APRA states, "(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information." I.C. §5-14-3-1. Any person has the right to inspect and copy the public records of a public agency during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. I.C. §5-14-3-3(a).

The Town is clearly a public agency for the purposes of the APRA. I.C. §5-14-3-2. Accordingly, any person has the right to inspect and copy the public records of the Town during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. I.C. §5-14-3-3(a).

A “public record” means any writing, paper, report, study, map, photograph, book, card, tape recording or other material that is created, received, retained, maintained or filed by or with a public agency. I.C. §5-14-3-2.

A request for records may be oral or written. I.C. §5-14-3-3(a); §5-14-3-9(c). If the request is made orally or by personal appearance in the office and the agency does not respond to the request within 24 hours of receipt, the request is deemed denied. I.C. §5-14-3-9(a).

Your request to the Town contains requests for a number of records and contains a series of questions. Nothing in the APRA requires a public agency to answer interrogatories. To the extent you can identify with reasonable particularity (See I.C. §5-14-3-3) records which would be responsive to these interrogatories, the Town would be required to provide access to those records absent an exception to disclosure. I.C. §5-14-3-3. It is my opinion the Town has not violated the APRA by not responding to the questions you have posed.

Regarding your requests for budgets, town ordinances, Fire “Run Information,” and “actual money paid out and to whom,” I agree with Mr. Long that these requests do not identify with reasonable particularity the records being requested.

A request for inspection or copying must identify with reasonable particularity the record being requested. I.C. §5-14-3-3(a). “Reasonable particularity” is not defined in the APRA. “When interpreting a statute the words and phrases in a statute are to be given their plain, ordinary, and usual meaning unless a contrary purpose is clearly shown by the statute itself.”

*Journal Gazette v. Board of Trustees of Purdue University*, 698 N.E.2d 826, 828 (Ind. App. 1998). Statutory provisions cannot be read standing alone; instead, they must be construed in light of the entire act of which they are a part. *Deaton v. City of Greenwood*, 582 N.E.2d 882 (Ind. App. 1991). “Particularity” as used in the APRA is defined as “the quality or state of being particular as distinguished from universal.” *Merriam-Webster Online*, [www.m-w.com](http://www.m-w.com), accessed July 18, 2007. In my opinion, when a public agency cannot ascertain what records a requester is seeking, the request likely has not been made with reasonable particularity. This is the case here. I cannot determine from the language of these requests what records you are seeking. And it is my understanding the Town cannot determine what you are seeking, either. I recommend you provide the Town with a request that identifies with particularity the records you are requesting.

Regarding your request for a “Letter stating . . .” under the “Fire” section of your request, it is my understanding you are requesting the Town write a letter to you indicating the items you list. Nothing in the APRA requires a public agency to *develop* records or information pursuant to a request. The APRA requires the public agency to *provide access* to records already created. In my opinion the Town did not violate the APRA by not creating the letter you requested.

#### CONCLUSION

For the foregoing reasons, it is my opinion the Town has not violated the Access to Public Records Act.

Best regards,



Heather Willis Neal  
Public Access Counselor

Cc: S. Anthony Long, Long & Mathies  
Brian Lucas, Town of Chandler