

March 10, 2008

Robert L. Waiz, Jr.  
3313 Lakewood Blvd.  
Jeffersonville, Indiana 47130

*Re: Formal Complaint 08-FC-52; Alleged Violation of the Access to Public Records Act by the City of Jeffersonville Clerk-Treasurer*

Dear Mr. Waiz:

This advisory opinion is in response to your formal complaint alleging the City of Jeffersonville Clerk-Treasurer ("Clerk") violated the Access to Public Records Act ("APRA") (Ind. Code 5-14-3) by not responding to your request for records. It is my opinion the Clerk violated the APRA if she received your request and did not respond.

#### BACKGROUND

In your complaint you allege that you submitted several requests to the Clerk for access to records related to her performance bond. You made your latest request on January 15, 2008, requesting copies of the bond for the years 2004 through 2008. You provide a copy of a certified mail receipt dated January 16, signed by C. Stewart. You filed this complaint on February 11, alleging denial of access.

My office sent a copy of your complaint to the Clerk and provided the opportunity for the Clerk to respond, but we did not receive a response to the complaint.

#### 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. The Clerk 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 Clerk 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 request for records may be oral or written. I.C. §5-14-3-3(a); §5-14-3-9(c). If the request is delivered by mail or facsimile and the agency does not respond to the request within seven days of receipt, the request is deemed denied. I.C. §5-14-3-9(b).

Here the Clerk did not respond to your complaint. If the Clerk's office received your request for records, the Clerk had a duty to respond to your request within seven days of receipt of the request. I.C. §5-14-3-9(b). If the Clerk did not do so, she violated the APRA.

#### CONCLUSION

For the foregoing reasons, it is my opinion the Clerk violated the APRA if she received your request and did not respond.

Best regards,



Heather Willis Neal  
Public Access Counselor

cc: Peggy Wilder, City of Jeffersonville Clerk-Treasurer