

February 25, 2008

Robert Leonard
6307 Miller Avenue
Gary, Indiana 46403

Re: Formal Complaint 08-FC-63; Alleged Violation of the Access to Public Records Act by the Calumet Township (Lake County) Assessor

Dear Mr. Leonard:

This advisory opinion is in response to your formal complaint alleging the Calumet Township Assessor ("Assessor") 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 Assessor's response to the complaint for your reference. It is my opinion the Assessor is required to produce the record you requested since it is not available on the website as previously indicated. Further, the Assessor must make reasonable efforts to provide the record to you via CD.

BACKGROUND

You hand delivered to the Assessor on February 18, 2008 a request for access to records. You allege the Assessor indicated the records were available via the Assessor's website and the website of the Indiana Department of Local Government Finance. You further allege the Assessor indicated the request would be fulfilled within one to two months. You alleged priority status under 62 IAC 1-1-3, claiming you require the information for an appeal deadline of February 25. Priority status has been granted.

The Assessor responded to your complaint by a brief letter dated February 25 from Jacquelyn Collins, Chief Deputy to the Assessor. Ms. Collins contends the Assessor has never denied you access to information but intended to provide you the information in a timely manner. Ms. Collins further indicated the study you requested would be mailed to you on February 25.

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." Ind. Code § 5-14-3-

1. The Assessor 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 Assessor 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).

Except as provided in subsection (e), a public agency that maintains or contracts for the maintenance of public records in an electronic data storage system shall make reasonable efforts to provide to a person making a request a copy of all disclosable data contained in the records on paper, disk, tape, drum, or any other method of electronic retrieval if the medium requested is compatible with the agency's data storage system. I.C. § 5-14-3-3(d).

If the information you request is indeed not available via the agency website, it is my opinion the Assessor has a duty under I.C. § 5-14-3-3(d) to make reasonable efforts to provide you a copy of the record in the medium requested. The Assessor has indicated the record has now been mailed to you in paper format but has not provided an explanation of any reasonable efforts the office has made to provide the information in the medium you requested. Based on section 3(d), the Assessor should make reasonable efforts to provide the record on a CD as you requested.

CONCLUSION

For the foregoing reasons, it is my opinion the Assessor is required to produce the record you requested since it is not available on the website as previously indicated. Further, the Assessor must make reasonable efforts to provide the record to you via CD.

Best regards,



Heather Willis Neal
Public Access Counselor

cc: Booker Blumenberg, Jr., Calumet Township Assessor