



STATE OF INDIANA

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April 6, 2010

Ms. Jamie Grabert
The City-County Observer
815 John Street
Suite 220-B
Evansville, IN 47713

*Re: Formal Complaint 10-FC-63; Alleged Violation of the Access to
Public Records Act by the Evansville Housing Authority*

Dear Ms. Grabert:

This advisory opinion is in response to your formal complaint alleging The Housing Authority of the City of Evansville (the "Authority") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* I have enclosed the Authority's response.

BACKGROUND

According to your complaint, on February 23, 2010, you submitted a formal written request to the City of Evansville ("City") for a copy of the employment contract for Authority director Mildred Motley for the year 2010. The request was hand-delivered to the Authority. As of March 5, 2010, you received no response to the request.

My office forwarded a copy of your complaint to the Authority. In response to your complaint, Ms. Motley denies that the Authority violated the APRA. She states that your request was addressed to the City, but the Authority is not affiliated with the City. She also notes that no contract between her and the City exists. Nevertheless, Ms. Motley informs me that she has provided you with a copy of the employment contract between her and the Authority.

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 Authority does not contest that it is a “public agency” under the APRA. I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the Authority’s public records during regular business hours unless the public records are excepted from disclosure as 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 (7) days of receipt, the request is deemed denied. I.C. §5-14-3-9(b). If the request is delivered in person and the agency does not respond within twenty-four (24) hours, the request is deemed denied. I.C. §5-14-3-9(a). A response from the public agency could be an acknowledgement that the request has been received and information regarding how or when the agency intends to comply.

Here, it appears that the Authority received a hand-delivered request for access to the employment contract. As such, the Authority should have responded to the request within twenty-four (24) hours as required by section 9 of the APRA. While I appreciate the Authority’s concerns regarding the form of this particular request, those concerns could have been addressed before a formal complaint was filed if the Authority would have responded to the request in accordance with the APRA.

CONCLUSION

For the foregoing reasons, it is my opinion that the Authority violated the APRA by failing to respond to a hand-delivered request within twenty-four (24) hours. I thank the Authority for subsequently providing responsive records to the requester on the Authority’s own initiative.

Best regards,



Andrew J. Kossack
Public Access Counselor

Cc: Mildred A. Motley