



STATE OF INDIANA

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May 15, 2013

Ms. Carrie Baucio
2 N. Broadway
P.O. Box 147
Peru, Indiana 46970

Re: Formal Complaint 13-FC-120; Alleged Violation of the Access to Public Records Act by the Cass County Treasurer

Dear Ms. Baucio:

This advisory opinion is in response to your formal complaint alleging Cass County Treasurer ("Treasurer") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* Kathy Adair, Treasurer, responded in writing to your formal complaint. Her response is enclosed for your reference.

BACKGROUND

In your formal complaint, you allege that on three separate occasions you have requested, on behalf of First Farmers Bank and Trust, certain property tax information from the Treasurer. In response, you provide that the Treasurer has either not responded in any fashion or responded and completely ignored your request. Your attempts to contact the Treasurer via telephone have been unsuccessful.

In response to your formal complaint, Ms. Adair provided that all information responsive to your request was provided on the date the Treasurer received your formal complaint. Ms. Adair apologized for the delay and provided that all tax information maintained by the Treasurer is available online via the county's website. The Treasurer has had a complete turnover in staff since last fall and is currently training new staff on the correct procedures in responding to requests.

ANALYSIS

The public policy of the APRA states that "(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." *See* I.C. § 5-14-3-1. The Treasurer is a public agency for the purposes of the APRA. *See* I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the Treasurer's

public records during regular business hours unless the records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. *See* I.C. § 5-14-3-3(a).

A request for records may be oral or written. *See* 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. *See* I.C. § 5-14-3-9(b). A response from the public agency could be an acknowledgement that the request has been received and include information regarding how or when the agency intends to comply. Here, the Treasurer failed to respond to your inquiries within seven (7) days of receipt. Upon receipt of your formal complaint, the Treasurer immediately provided all records responsive to your request and apologized for the oversight. Ms. Adair further noted that the Treasurer has had a complete turnover in staff since last fall and was working on providing the proper training in responding to requests that are received. Accordingly, it is my opinion that the Treasurer acted contrary to the requirements of section 9(b) of the APRA by not acknowledging your requests in writing within seven (7) days of receipt. As all records have now been provided, I trust that this is in satisfaction of your formal complaint.

CONCLUSION

For the foregoing reasons, it is my opinion that the Treasurer acted contrary to section 9(b) of the APRA in not responding to your written requests within seven (7) days of receipt. As all records have now been provided, I trust that this is in satisfaction of your formal complaint.

Best regards,

A handwritten signature in black ink, appearing to read "J. Hoage". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

Joseph B. Hoage
Public Access Counselor

cc: Kathy Adair