



# STATE OF INDIANA

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June 26, 2013

Ms. Jean D. Schoknecht  
3332 South Meridian Street  
Indianapolis, Indiana 46217

*Re: Formal Complaint 13-FC-169; Alleged Violation of the Access to Public Records Act by the Department of Public Works of the City of Indianapolis*

Dear Mr. Schoknecht:

This advisory opinion is in response to your formal complaint alleging that the Department of Public Works of the City of Indianapolis (“City”) violated the Access to Public Records Act (“APRA”), Ind. Code § 5-14-3-1 *et seq.* Samantha DeWester, City Prosecutor and Public Access Counselor, responded in writing to your formal complaint. Her response is enclosed for your reference.

## BACKGROUND

In your formal complaint, you provide that on June 10, 2013, you hand-delivered a written request for records to the City. As of June 14, 2013, the date you filed your formal complaint with the Public Access Counselor’s Office, you have yet to receive any written response to your request.

In response to your formal complaint, Ms. DeWester advised that on June 17, 2013, a written acknowledgement of your request was sent to you by the City via regular mail. The City has commenced a search for all records responsive to your request and will provide said records in a reasonable period of time as required under section 3 of the APRA. The City apologizes for its oversight in failing to acknowledge the receipt of your hand-delivered written request within twenty-four hours.

## 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 City 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 City’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 in person and the agency does not respond within twenty-four hours, the request is deemed denied. *See* I.C. § 5-14-3-9(a). 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. *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 information regarding how or when the agency intends to comply. Here, you hand-delivered a written request for records to the City on June 10, 2013. Thus, the City was required to respond, in writing, within twenty-four hours of receipt. The City responded in writing to your request on June 17, 2013. As the City failed to respond in writing within twenty-four hours of the receipt of your hand-delivered written request, it is my opinion that the City acted contrary to the requirements of section 9 of the APRA. *See Opinions of the Public Access Counselor 05-FC-176; 11-FC-84; 11-FC-308; 12-FC-63; 12-FC-316; 13-FC-10.* As the City has now acknowledged the receipt of your request, I trust that this is in satisfaction of your formal complaint. Beyond acknowledging the receipt of your request, pursuant to section 3(b) of the APRA, the City has a reasonable period of time to provide all records responsive to your request.

#### CONCLUSION

Based on the foregoing reasons, it is my opinion that the City acted contrary to the APRA by failing to acknowledge, in writing, the receipt of your hand-delivered written request within twenty-four hours.

Best regards,

A handwritten signature in black ink, appearing to read "J. Hoage". The signature is stylized with a large initial "J" and a cursive "Hoage".

Joseph B. Hoage  
Public Access Counselor

cc: Samantha DeWester