



# STATE OF INDIANA

**MICHAEL R. PENCE, Governor**

**PUBLIC ACCESS COUNSELOR  
LUKE H. BRITT**

Indiana Government Center South  
402 West Washington Street, Room W470  
Indianapolis, Indiana 46204-2745  
Telephone: (317)233-9435  
Fax: (317)233-3091  
1-800-228-6013  
[www.IN.gov/pac](http://www.IN.gov/pac)

October 11, 2013

Jill D. Nelson  
2039 E. Main St.  
Richmond, IN 47374

*Re: Formal Complaint 13-FC-269; Alleged Violation of the Access to Public Records Act by the City of Richmond*

Dear Ms. Nelson,

This advisory opinion is in response to your formal complaint alleging the City of Richmond, ("City") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* Ms. Kimberly Vessels, Esq., Assistant City Attorney responded on behalf of the City. Her response is enclosed for your reference. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on September 11, 2013.

## BACKGROUND

Your complaint alleges the City of Richmond violated the Access to Public Records Act by denying your request in violation of Ind. Code § 5-14-3-3(b). You allege that on or about August 21, 2013, you served upon the City a Public Records Request received by the City on August 22, 2013. You requested the following information:

**RICHMOND CITY ORDINANCE 41-2013, AUTHORIZING CITY TO RECEIVE DONATION FROM EGG [Economic Growth Group of Richmond, IN, Inc.]**

The City responded in a timely manner to you on August 22, 2013 indicating a search was being initiated for the records and copying fees would be assessed upon completion of the search. The City followed up on August 28, 2013 with the specific fees charged and letting you know the records had been retrieved for you.

You paid for the copies on September 5, 2013. You allege you were not given the totality of the ordinance you sought and filed your formal complaint on September 11, 2013.

## 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 Ind. Code § 5-14-3-1. The City of Richmond is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Accordingly, any person has the right to inspect and copy the City’s public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14- 3-3(a).

A request for records may be oral or written. See Ind. Code § 5-14-3-3(a); § 5-14-3-9(c). If the request is delivered in person and the agency does not respond within 24 hours, the request is deemed denied. See Ind. Code § 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 (7) days of receipt, the request is deemed denied. See Ind. Code § 5-14-3-9(b). A response from the public agency could be an acknowledgement the request has been received and information regarding how or when the agency intends to comply.

I have reviewed the documentation sent to you regarding the Ordinance you were seeking and it appears to satisfy your request. I cannot state with accuracy if the ordinance provided is the entirety of the records, as the Public Access Counselor is not a finder of fact; however, it seems the response matches your request. Due to this appraisal, I cannot conclude the City violated any portion of the APRA and there are a few items for you to take into consideration.

A public agency may deny all or part of a record because it does not identify with “reasonable particularity” the records being sought. See Ind. Code § 5-14-3-1(a)(1). In the current instance, it appears you were not satisfied by the production of the document; conversely, it can be inferred the City provided exactly the documentation for which you asked. If you believe there may be another record that would provide you with additional information, then you may append your request with more specificity.

Secondly, you seem to take exception with the City charging you a copying fee for the records. Please be advised a public agency may charge a reasonable fee for copying Ind. Code § 5-14-3-8(d)(1). The City has submitted communication wherein they indicate they charged you \$.10 a copy, which is statutorily allowed. If you prefer not to be charged a fee, the City must let you inspect the records retained in their offices at no charge. It is not unreasonable they charge a copy fee.

## CONCLUSION

For the foregoing reasons, it is the Opinion of the Office of the Public Access Counselor the City of Richmond did not violate the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to be 'LH Britt', written in a cursive style.

Luke H. Britt  
Public Access Counselor

cc: Kimberly Vessels, Esq.