



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

July 7, 2014

Mr. Bryan K. Bullock, Esq.
7863 Broadway, Ste. 222
Merrillville, IN 46410

Re: Formal Complaint 14-FC-119; Alleged Violation of the Access to Public Records Act by the Lake County Board of Commissioners

Dear Mr. Bullock,

This advisory opinion is in response to your formal complaint alleging the Lake County Board of Commissioners ("Board") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The Board has responded via Administrator Tramel Raggs. The Board's response is enclosed for your review. 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 June 2, 2014.

BACKGROUND

Your complaint dated May 23, 2014, alleges the Lake County Board of Commissioners violated the Access to Public Records Act by not providing records responsive to your request in violation of Ind. Code § 5-14-3-3(b).

On April 4, 2014 you submitted to the Board a public records request seeking a number of documents from the Lake County Council ("Council"). You asked the Board forward your request to the Council. As of the date of the writing of your complaint, you had not received a response.

The Board responded it had forwarded the request to the Council as you directed in your letter. It argues the burden of response was then effectively transferred to the Lake County Council.

DISCUSSION

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 Lake County Board of Commissioners 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 Board’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.

From the information provided, it appears the Board and the Council are two separate public agencies. I am not familiar with how the Lake County political subdivision is structured, so I cannot determine if the entities have shared responsibilities regarding public records requests. There is no indication to suggest they act collaboratively. The Board concedes it did not respond to your request, but forwarded it as asked. The APRA does not consider this type of arrangement.

Alternatively, the Lake County Council is under a statutory obligation to acknowledge your request within seven days and produce records responsive to your request within a reasonable time. If the Council has not responded in any way, or you take exception with their response, please do not hesitate to contact me to facilitate a solution.

CONCLUSION

For the foregoing reasons, it is the Opinion of the Public Access Counselor the Lake County Board of Commissioners has not violated the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to read 'LH Britt', with a long horizontal flourish extending to the left.

Luke H. Britt
Public Access Counselor

Cc: Tramel Raggs