



STATE OF INDIANA

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January 15, 2016

Ms. Jan Boyd
6990 South Stone Road
Bloomfield, Indiana 47424

Re: Formal Complaint 16-FC-01; Alleged Violation of the Access to Public Records Act by the State of Indiana Department of Transportation

Dear Ms. Boyd:

This advisory opinion is in response to your formal complaint alleging State of Indiana Department of Transportation (“INDOT”) violated the Access to Public Records Act (“APRA”), Ind. Code § 5-14-3-1 et. seq. INDOT has responded to your complaint via Mr. Mark Hawkins, Staff Attorney. His 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 January 4, 2016.

BACKGROUND

Your complaint dated January 2, 2016 alleges the Department of Transportation violated the Access to Public Records Act by improperly denying your request.

You requested “any and all” meeting notes, memos, emails and other records related to a site visit which had occurred on your property. INDOT stated your request lacked reasonable particularity.

On January 19, 2016, INDOT responded to your formal complaint. INDOT reiterates its denial for lack of reasonable particularity citing Ind. Code § 5-14-3-3(a).

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 State of Indiana Department of Transportation 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 INDOT's disclosable 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).

Under Ind. Code § 5-14-3-3(a), requests for records "must identify with reasonable particularity the record being requested." Reasonable particularity is not defined under the APRA. If a public agency cannot ascertain what records a requestor is seeking, the request likely has not been made with reasonable particularity. However, merely because a request is broad does not mean a request lacks reasonable particularity.

You are requesting records related to a site visit on your property. You have identified specific dates, locations, projects and consultants. It is true a public records request should not contain language such as "any and all"; however, a requestor also does not need to identify with pinpoint accuracy a specific document being sought. You have set forth reasonable search parameters which would allow INDOT to work with you in narrowing down a set of documents that would be responsive to your request. INDOT appears to have invited you to further narrow the scope of your search.

It is likely there is a file or grouping of records related to your site visit which would be responsive to your request. This particular set of records should be fairly easy for INDOT to search for and retrieve. Based upon those records, you would ostensibly be able to tailor a request in order that INDOT would know exactly where to look for such records. Legally, INDOT is correct that your request is too broad; however, based upon the circumstances, narrowed search parameters should be fairly simple to set.

CONCLUSION

Based on the forgoing, it is the Opinion of the Public Access Counselor that INDOT's original denial was proper under the Access to Public Records Act; however, INDOT should work with you to release any records it has responsive to your request.

Regards,

A handwritten signature in black ink, appearing to read "L. H. Britt", with a large, sweeping flourish underneath.

Luke H. Britt
Public Access Counselor

Cc: Mr. Mark Hawkins, Esq.