



STATE OF INDIANA

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June 24, 2016

Mr. Michael Christianson - #135489
New Castle Correctional Facility
Post Office Box A
New Castle, Indiana 47362

Re: Formal Complaint 16-FC-125; Alleged Violation of the Access to Public Records Act by the LaPorte County Board of Commissioners

Dear Mr. Christianson:

This advisory opinion is in response to your formal complaint alleging the LaPorte County Board of Commissioners, ("Board") violated the Access to Public Records Act ("APRA"), Indiana Code § 5-14-3-1 et. seq. The Board has responded via Ms. Robin Surber. Her response is enclosed for your review. Pursuant to Indiana 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, 2016.

BACKGROUND

Your complaint dated May 26, 2016 alleges the Board violated the Access to Public Records Act by failing to respond to your records request.

On May 3, 2016 you mailed a request to the Board seeking copies of ordinances. As of the filing of your complaint you had not received a response.

On June 13, 2016 the Board responded, stating your request should have been sent to the City of LaPorte not the Board. The Board does not possess records related to the City of LaPorte.

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 Indiana Code § 5-14-3-1*. The LaPorte Board of Commissioners is a public agency for the purposes of the APRA. *See Indiana Code § 5-14-3-2(n)(1)*. Accordingly, any person has the right to inspect and copy the Board's disclosable public

records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. *See Indiana Code § 5-14-3-3(a)*.

A request for records may be oral or written. *See Indiana Code § 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 Indiana 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.

The Board has stated your request should have been sent to the City of LaPorte. While an address sent to the wrong agency does not need to be fulfilled by that agency, Indiana Code still requires a response to the original, improper request. The Board is required to send a response to you stating your request should be sent to the City under Indiana Code § 5-14-3-9(b) as a written denial of your request. If no response is given and LaPorte uses the improper address as a reason not to respond, you ostensibly have no way of knowing your request is improper.

CONCLUSION

Based on the forgoing, it is the Opinion of the Public Access Counselor the LaPorte County Board of Commissioners has violated the Access to Public Records Act by failing to inform you that your request was sent to the wrong agency.

Regards,

A handwritten signature in black ink, appearing to read 'LHB', with a long, sweeping underline.

Luke H. Britt
Public Access Counselor

Cc: Ms. Robin Surber