



STATE OF INDIANA

MICHAEL R. PENCE, Governor

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October 11, 2016

Mr. Dennis E. Feiock
3620 Klemer Lane
New Albany, Indiana 47150

Re: Formal Complaint 16-FC-226; Alleged Violation of the Access to Public Records Act by the City of New Albany

Dear Mr. Feiock:

This advisory opinion is in response to your formal complaint alleging the City of New Albany ("City") violated the Access to Public Records Act ("APRA"), Indiana Code § 5-14-3-1 et. seq. The City has not responded to your complaint despite an invitation to do so on September 7, 2016. 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 September 7, 2016.

BACKGROUND

Your undated complaint alleges the City of New Albany failed to provide you with the information you sought pursuant to a public access request.

On or about August 10, 2016, you requested from the City a copy of a study performed pursuant to a storm water plan project. The City acknowledged your request that same day and indicated your request would be forwarded to the City attorney. The City attorney followed up on August 17, 2016 formally acknowledging your request and indicating he would review it.

In an email back to the Mayor's office, you seem to indicate your believe that seven (7) days is the maximum amount of time for a public access request to be completed. As of the date of the filing of your complaint, the City has not responded further to your request, nor have they provided a response to this office of your formal complaint.

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 City of New

Albany 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 DOC'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 was submitted 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.

While a public agency must acknowledge receipt of a written public records request within seven (7) days, it has a reasonable time to actually produce the records. *See Indiana Code § 5-14-3-3*. According to your email to the City, it seems as if you believe an agency's deadline for completing the request entirely is seven (7) days. This is not the case. While the records should be produced in an efficient manner, an agency has longer than seven (7) days to fulfill the request.

While I would have expected a response to your complaint pursuant to *Indiana Code § 5-14-5-5*, it is my expectation the City will provide a response to you (if it has not already done so) in an expedited fashion.

Please do not hesitate to contact me with any questions.

Regards,

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

Luke H. Britt
Public Access Counselor