



STATE OF INDIANA

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November 4, 2016

Mr. Thomas T. Dye, Jr.
325 North Hyde Park Drive
Vincennes, Indiana 47591

Re: Formal Complaint 16-FC-256; Alleged Violation of the Access to Public Records Act by the Knox County Auditor's Office

Dear Mr. Dye:

This advisory opinion is in response to your formal complaint alleging the Knox County Auditor's Office ("Auditor") violated the Access to Public Records Act ("APRA"), Indiana Code § 5-14-3-1 et. seq. Ms. Lisa G. Madden, Auditor responded. Her response is attached 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 October 3, 2016.

BACKGROUND

Your complaint dated September 29, 2016, alleges the Knox County Auditor violated the Access to Public Records Act by charging excessive fees for copying public records.

The Knox County Commissioners passed Resolution 9A in 2003, which indicates the County charges \$1.00 per copy for standard-sized black and white documents. A recent public records production from the Auditor was accompanied by the \$1.00 per copy fee. You contend this is at odds with the APRA.

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 Knox County Auditor's 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 Auditor'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)*.

The APRA permits a public agency to charge a fee for copying a record, but sets certain limits on the amount of the copying fee depending upon the type of public agency. *See Indiana Code § 5-14-3-8*. For public agencies which are not state agencies, the fee for copying documents may not exceed the greater of ten cents (\$0.10) per page for copies which are not color copies or twenty-five cents (\$0.25) for color copies; or the actual cost to the agency of copying the document. *See Indiana Code § 5-14-3-8(d)*. For non-standard documents, actual cost may be charged. "Actual cost" means the cost of paper and the per page cost for use of copying or facsimile equipment and does not include labor costs or overhead costs.

In my opinion, Knox County Board of Commissioners 9A is in direct conflict with state law and should be amended or voided immediately to reflect a fee schedule consistent with Indiana Code § 5-14-3-8(d), and capping the fee at \$.10 at the very most. It appears as if the Board is taking steps to remedy the situation later this month.

Please do not hesitate to contact me with any further questions.

Regards,

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

Luke H. Britt
Public Access Counselor

Cc: Ms. Lisa G. Madden