



STATE OF INDIANA

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May 13, 2016

John Wall
4499 Berrymore Court
Terre Haute, Indiana 46803

Re: Formal Complaint 16-FC-83; Alleged Violation of the Access to Public Records Act by the City of Terre Haute, Office of the Controller

Dear Mr. Wall:

This advisory opinion is in response to your formal complaint alleging the City of Terre Haute, Office of the Controller; Ms. Leslie Ellis (“Office”) violated the Access to Public Records Act (“APRA”), Ind. Code § 5-14-3-1 et. seq. The Office has responded via Mr. Darrell Felling, City 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 April 11, 2016.

BACKGROUND

Your complaint dated April 4, 2016 alleges the City of Terre Haute, Office of the Controller violated the Access to Public Records Act by improperly denying your records request.

On March 5, 2016 you sent a records request to the City but did not receive your documents. You requested “any and all records of payments made in lieu of taxes by the Sanitary District of Terre Haute or the waste water treatment plant to the City of Terre Haute for the years 2008 to 2015 inclusive.” Your request was acknowledged on March 7, 2016. You received no further communication.

On April 29, 2016 the City responded. The City states it provided documentation to you on April 15, 2016. It also notes the Controller’s Office was only 66% staffed during the time your request was being processed and therefore asserts its timeframe was reasonable.

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 City of Terre Haute, Office of the Controller 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 City’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).

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 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.

Your request was properly acknowledged by the City. However, you received no other communication or documentation after one (1) month. Records must be provided within a reasonable period of time. The determination of what constitutes a reasonable period of time depends on the circumstances.

Your request for records was very broad, requiring the City to search for any payment records from the Sanitary District over a period of seven (7) years. The City has also stated the Controller’s Office was not fully staffed, which would cause delays in production. A time period of five (5) weeks is reasonable considering the scope of your request and the staffing issues at the Controller’s Office. Further, it appears you have received the documents you requested. Preferably, my expectation is for a public agency to be in reasonable, semi-regular communication with a requestor during the process of compiling a voluminous amount of records. Periodic status updates often serve to curtail a requestor from filing a complaint. I encourage the City to be mindful of that consideration in the future.

CONCLUSION

Based on the forgoing, it is the Opinion of the Public Access Counselor the City of Terre Haute, Office of the Controller has not violated the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to be the initials 'JTB' with a long, sweeping underline.

Luke H. Britt
Public Access Counselor

Cc: Mr. Darrell Felling, Esq.