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**OPINION OF THE PUBLIC ACCESS COUNSELOR**

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KENNETH W. DAVIDSON,  
*Complainant,*

v.

CITY OF GARY.,  
*Respondent.*

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Formal Complaint No.  
17-FC-213

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Luke H. Britt  
Public Access Counselor

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BRITT, opinion of the Counselor:

This advisory opinion is in response to the formal complaint alleging the City of Gary (“City”) violated the Access to Public Records Act<sup>1</sup> (“APRA”). The City has responded via attorney Gregory L. Thomas. In accordance with Indiana Code § 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on August 24, 2017.

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<sup>1</sup> Ind. Code §§ 5-14-3-1 to -10

## **BACKGROUND**

Kenneth W. Davidson (“Complainant”) filed a formal complaint alleging that the City violated the Access to Public Records Act by failing to acknowledge a request within the statutory timeframe.

On or about July 14, 2017, the Complainant submitted an in-person request to the City’s Law Department. The City did not acknowledge the request until July 20. Furthermore, the City had not fulfilled the request at the time of filing of the Complaint.

The City responded by conceding the delay and claiming it was due to an administrative oversight and personnel issue. The records were ultimately provided to the Complainant on September 13, 2017.

## **ANALYSIS**

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.” Ind. Code § 5-14-3-1. The City of Gary is a public agency for the purposes of the APRA. Ind. Code § 5-14-3-2(n). Therefore, 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. Ind. Code § 5-14-3-3(a).

A public agency is required to make a response to an in-person request within twenty-four (24) hour after it is received. See Ind. Code § 5-14-3-9.

The purpose of the acknowledgement timeline is to give a requester assurances that a request has been received and is being processed. While a paper receipt is encouraged, it is not necessarily mandatory. It appears as if the City is aware of this requirement and a mistake was made causing the delay. Steps have been taken to ensure it will not occur in the future.

As for the requests themselves, they appear to have been fulfilled. A quick review of the requests leads to the conclusion that they were appropriate albeit complex and voluminous. It stands to reason a delay was justified. However, this also highlights the importance of communication to a requester informing them of periodic status updates and progress of a request.

### **CONCLUSION**

Based on the foregoing, it is the Opinion of the Public Access Counselor the City of Gary violated the Access to Public Records Act but has taken steps to remedy the problem.

A handwritten signature in black ink, appearing to read 'L. H. Britt', with a stylized flourish at the end.

Luke H. Britt  
Public Access Counselor