

---

**OPINION OF THE PUBLIC ACCESS COUNSELOR**

---

ARMEL C. KOUASSI,  
*Complainant,*

v.

CITY OF MUNSTER,  
*Respondent.*

---

Formal Complaint No.  
19-FC-129

---

Luke H. Britt  
Public Access Counselor

---

BRITT, opinion of the Counselor:

This advisory opinion is in response to a formal complaint alleging that the City of Munster violated the Access to Public Records Act.<sup>1</sup> Munster Clerk-Treasurer David F. Shafer filed an answer to the complaint on behalf of the city. 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 November 25, 2019.

---

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

## **BACKGROUND**

This case involves a dispute over access to records documenting the disconnection of water service for properties in the City of Munster.

On November 21, 2019, Armel Kouassi (“Complainant”) filed a public records request with the city seeking the following:

Records of all residential properties that have had the water turned off from 10/01/19 – 11/20/19.  
Also residential properties with code violations from 6/1/19 – 11/20/19.

The same day, Munster Clerk-Treasurer David Shafer denied Kouassi’s request. In the denial, Shafer stated that the request was “denied in part because addresses of water customers are not disclosable.” Shafer also informed Kouassi that information pertaining to code violations was maintained by the building department and the police department, so he had referred that portion of the request to those departments.

On November 25, 2019, Kouassi filed a formal complaint with this office alleging the denial constituted a violation of the Access to Public Records Act. Specifically, Kouassi argues that he did not request any information that would be considered confidential, such as names or numbers; and thus, the city improperly denied his request.

Munster filed a response to the Kouassi’s complaint on November 26, 2019. The city maintains that the decision to deny Kouassi’s request was appropriate. Specifically, the city argues that Indiana Code section 5-14-3-4(b)(20) prevents

the disclosure of the addresses belonging to water utility customers, therefore the city was required to deny Kouassi's request.

## ANALYSIS

### 1. The Access to Public Records Act ("APRA")

It is the public policy of the State of Indiana that all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees. Ind. Code § 5-14-3-1.

The Access to Public Records Act ("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." *Id.* The City of Munster is a public agency for the purposes of APRA; and thus, is subject to the act's requirements. Ind. Code § 5-14-3-2(q). Unless otherwise provided by statute, any person may inspect and copy the City's public records during regular business hours. Ind. Code § 5-14-3-3(a).

Although public records are presumptively disclosable, APRA contains both mandatory and discretionary exceptions to disclosure.<sup>2</sup>

### 2. Records of Municipal Utilities

APRA makes clear the information of a municipal utility that may be withheld by a city. Indiana Code section 5-14-

---

<sup>2</sup> Ind. Code §§ 5-14-3-4(a), -(b).

3-4(b)(20) states that an agency may withhold, at its discretion, the following:

The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):

(A) Telephone number.

(B) Address.

(C) Social Security number

Here, the city indeed relied on and cited this statute in its original denial. There is no dispute records in question concern customers of a municipal utility as defined by Indiana Code section 8-1-2-1. So long as that presumption is accurate, the information described above would be non-disclosable at the discretion of the agency.

Had the request identified a specific address and sought confirmation of shut-off dates that would be appropriate for disclosure. However, that does not appear to be the case – the addresses were unknown.

Additionally, there is a question of reasonable particularity. APRA requires a person to identify with reasonable particularity the records they are seeking. Ind. Code § 5-14-3-3. Seeking shut-off records for a city the size of Munster likely would not meet that benchmark.

## CONCLUSION

Based on the foregoing, it is the opinion of this office that the City of Munster did not violate the Access to Public Records Act.

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

Luke H. Britt  
Public Access Counselor