
OPINION OF THE PUBLIC ACCESS COUNSELOR

JASON L. TURNER,
Complainant,

v.

TOWN OF WINDFALL,
Respondent.

Formal Complaint No.
19-FC-64

Luke H. Britt
Public Access Counselor

BRITT, opinion of the Counselor:

This advisory opinion is in response to a formal complaint alleging the Town of Windfall violated the Access to Public Records Act.¹ The Town did not respond to the complaint despite an invitation to do so. In accordance with Indiana Code § 5-14-5-10, I issue the following opinion to the amended formal complaint received by the Office of the Public Access Counselor on August 8, 2019.

¹ Ind. Code § 5-14-3-1 to 10.

BACKGROUND

This case involves a dispute over access to copies of receipts for playground equipment and certain video footage maintained by the Town of Windfall.

On July 31, 2019, Jason L. Turner (“Complainant”) asserts that he requested copies of receipts for \$1200 of playground equipment purchased by Windfall Town Council member Denise Ryan. Turner says Ryan told him she did not have either receipt. Turner also contends that Ryan denied his request to furnish video footage of an alleged confrontation between himself and Ryan on the same day.

As a result, on August 8, 2019, Turner filed a formal complaint with this office asserting that Ryan’s denial of his requests constitutes a violation of the Access to Public Records Act.

This office forwarded the complaint to Windfall and solicited a response to the complaint. Windfall did not file an answer to the complaint.

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. 5

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 Town of Windfall is a public agency for the purposes of APRA; and thus, subject to the act’s requirements. Ind. Code § 5-14-3-2(n). Unless otherwise provided by statute, any person may inspect and copy the auditor’s public records during regular business hours. Ind. Code § 5-14-3-3(a).

Further, a request for inspection or copying must:

- (1) identify with reasonable particularity the record being requested; and
- (2) be, at the discretion of the agency, in writing on or in a form provided by the agency.

Ind. Code § 5-14-3-3(a)(1), -(2). Here, Turner alleges the Town of Windfall violated APRA by failing to provide copies of certain receipts for playground equipment he requested and denying him access to video footage that allegedly depicts a confrontation between himself and council member Denise Ryan.

Windfall did not respond to the allegations in the complaint despite an invitation to do so. As a result, this office must presume that Windfall does not dispute Turner’s claims. This office will not form and present arguments on behalf of an agency that fails to answer a formal complaint.

This office previously acknowledged the utility of an agency responding to allegations that the agency does not respond to requests for records. In *Opinion of the Public Access Counselor*, 18-FC-100 (2018), this office recognized that “failing to respond to a claim that the agency fails to respond is one

of the most efficient methods of strengthening a complainant's argument." So too is the case here.

Receipts of town expenditures and video footage created by the town are public records by definition under APRA. *See* Ind. Code § 5-14-3-2(r). Public records are presumptively disclosable upon request unless an exception to disclosure applies under the law.

Since Windfall did not respond to complaint, this office must presume the records exist as alleged by Turner. What is more, this office must also presume that no disclosure exception applies to either record. As a result, the Town of Windfall has not complied with APRA.

CONCLUSION

Based on the foregoing, it is the opinion of the Public Access Counselor that the Town of Windfall violated the Access to Public Records Act.

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

Luke H. Britt
Public Access Counselor