
OPINION OF THE PUBLIC ACCESS COUNSELOR

CHARLENE F. JUSTICE,
Complainant,

v.

TOWN OF UPLAND,
Respondent.

Formal Complaint No.
22-FC-71

Luke H. Britt
Public Access Counselor

This advisory opinion is in response a formal complaint alleging the Town of Upland violated the Access to Public Records Act.¹ Attorney Adrienne Rines Hammond filed an answer on behalf of the town. 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 April 20, 2022.

¹ Ind. Code § 5-14-3-1-10.

BACKGROUND

In this case we consider whether a public records request meets the Access to Public Records Act's (APRA) standard for "reasonable particularity."

On February 18, 2022, Charlene F. Justice (Complainant) submitted a request to the Town of Upland seeking several public records including the following: (1) three years of vendor claims; (2) two years of "ordinances, resolutions, contracts and/or agreements;" (3) the town manager's contract; (4) the surety bond information on town employees; and (5) the town's legal services contact (both past and present).

On February 23, 2022, Upland informed Justice that her request was unspecific. After some back and forth with the Town's attorney, Justice resubmitted her request on April 5. While the resubmitted request contained some clarification, it did not appear to narrow the scope of the request. The Town ultimately denied Justice's request on April 15, 2022.

Five days later, Justice filed a formal complaint with this office.

On May 18, 2022, Upland filed an answer denying Justice's claim that it improperly denied her access to public records in violation of APRA.

Specifically, Upland argues that Justice's requests fail to meet APRA's reasonable particularity standard. The Town asserts that it initially offered—through its attorney—to meet individually with Justice to go over her requests but

Justice declined to do so. After failing to narrow the requests, the Town feels justified in denying the request in its entirety.

ANALYSIS

1. The Access to Public Records Act

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.” Ind. Code § 5-14-3-1. The Town of Upland (Upland) is a public agency for purposes of APRA; and therefore, subject to its requirements. *See* Ind. Code § 5-14-3-2(q). As a result, unless an exception applies, any person has the right to inspect and copy the town’s public records during regular business hours. Ind. Code § 5-14-3-3(a).

Indeed, APRA contains mandatory exemptions and discretionary exceptions to the general rule of disclosure. *See* Ind. Code § 5-14-3-4(a) to -(b).

2. Reasonable particularity

The crux of this dispute is whether the request by Justice meets the reasonable particularity standard set by APRA, our courts, and this office.

Under APRA, a request for inspection or copying “must identify with reasonable particularity the record being requested.” Ind. Code § 5-14-3-3(a)(1). Requiring reasonable particularity relieves a public agency from the guesswork of having to anticipate exactly what a requester is seeking. To

borrow an idiom from our colleagues at the Hoosier State Press Association, a request should be more like a rifle less like that of a shotgun.

Although “reasonable particularity” is not statutorily defined, the Indiana Court of Appeals addressed the meaning of the phrase in *Jent v. Fort Wayne Police Dept.* 973 N.E.2d (Ind. Ct. App. 2012), which involved a dispute about daily incident report logs. In *Jent*, the court concluded that reasonable particularity “turns, in part, on whether the person making the request provides the agency with information that enables the agency to search for, locate, and retrieve the records.”

Undoubtedly, some records Justice requested are among the least complex to gather and disclose. Records like ordinances or resolutions adopted by the town council should be organized in the official record of the council’s activities. While this office could not find those documents on the Internet, many municipalities will post their codes online. Regardless, this portion of the request should be easy to produce.

The same is true of the Town Manager’s contract (if one exists) and the legal services engagement letter for current and prior representation. Municipalities usually have a blanket umbrella surety bond for all employees and officials as well. If not, Justice would need to ask for specifically named employees (and not all at once).

As for the remainder of the request, those items could be a little more difficult to pinpoint exactly what Justice is seeking. For example, if the Town organizes, or can pull from a software program, all invoices or claims from a single,

named vendor, it should do so upon request. If they are in various files scattered throughout departments, that may be a different matter altogether. Different municipalities have different ways of organizing those files. But typically speaking, seeking multiple years' worth of claims is not a request an agency is usually encouraged to honor.

And so it goes for contracts and agreements as well. While the Town of Upland (population approximately 4,000) is not a sprawling metropolitan area, neither is it a tiny village. All contracts and agreements for multiple years is also not a reasonably particular request.

CONCLUSION

Based on the foregoing, it is the opinion of this office that the Town of Upland should reevaluate its denial based on this opinion, although we do not take exception to the entirety of its original response.



Luke H. Britt
Public Access Counselor

Issued: August 4, 2022