



STATE OF INDIANA

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June 25, 2014

Ms. Donna Christenberry
1724 Wabash Ave.
Terre Haute, IN 47807

Re: Informal Inquiry 14-INF-20; Public Utility Records

Dear Ms. Christenberry:

This is in response to your informal inquiry regarding investigatory records of the City of Terre Haute ("City"). The City has responded via City Attorney Chou-il Lee. The City's response is enclosed for your review. Pursuant to Ind. Code § 5-14-4-10(5), I issue the following informal opinion in response to your inquiry. My opinion is based on applicable provisions of the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1.

BACKGROUND

You requested an analysis of the validity of a requirement by the City of Terre Haute ("City") that, in order to receive information relating to a sewage bill, the requester must, on a form provided by the City, identify themselves as either a "Property Owner", "Agent of Property Owner", or "Title Company".

The City, in their response to your informal inquiry, provided background to the current billing system, along with the City's analysis of the requirement for classification of the requester. The City's sewage billing system is handled by a private contractor, TPi, located in Omaha, NE. TPi generally will not release account information to anyone other than the account holder. If someone other than the account holder requests account information from TPi, TPi refers that individual to the City. The City, in order to deal with the large volume of requests for sewage billing information, established an on-line form for requesters to submit.

Ind. Code § 5-14-3-4(b)(20) places the disclosure of customer telephone numbers, addresses, and social security numbers at the discretion of the agency. The City, in order to protect the privacy of customers, desires to limit the release of this information to only those who have a legitimate interest in the property. Therefore, the City chose to limit the release of this information to the property owner, agent of the property owner, or a title

company. Filing of the form appears to yield only the account holder's name, balance of the bill, date of latest bill, and account number.¹

DISCUSSION

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 is a public agency for the purposes of the APRA. *See* Ind. Code § 5-14-3-2. Accordingly, any person has the right to inspect and copy the City's non-confidential public records during regular business hours unless the records are excepted from disclosure as confidential or otherwise non-disclosable under the APRA. *See* Ind. Code § 5-14-3-3(a).

Certain information related to a public utility bill may be withheld by a public agency under Ind. Code § 5-14-3-4(b)(20). Other information relating to a utility such as structural elements, maps, computer data systems, etc. may also be withheld. *See* Ind. Code § 5-14-3-4(b)(11) and (b)(19)(k). Therefore it stands to reason the City may want to know the standing of the requester before it chooses to release certain information which it deems disclosable.

In light of the online form attached with your complaint appears to limit the field of requesters to certain individuals. Any information other than the discretionary elements listed above is available to anyone regardless of status in relation to the property. While the justification for the City wanting to know the standing of the individual is sound, there should be a field for 'Other' and a perhaps a narrative box to indicate the identification of those who are not property owners, agents or title companies. I encourage the City to modify its online form to reflect this.

In the meantime, you are entitled to the utility records you seek other than information which meets the statutory standard for discretionary release. If you have difficulty obtaining this information I suggest you contact the City in light of this Opinion.

Please do not hesitate to contact me with any further questions.

Best regards,

A handwritten signature in black ink, appearing to be the initials 'JHB' with a large, sweeping flourish underneath.

¹ The Office of Public Access Counselor's summer intern is a resident of Terre Haute. The search on his property yielded these results.

Luke H. Britt
Public Access Counselor

cc: Chou-II Lee