



STATE OF INDIANA

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November 18, 2014

Mr. Arend J. Abel, Esq.
Cohen & Malad, LLP
One Indiana Square, Ste. 1400
Indianapolis, IN 46204

Re: Informal Inquiry 14-INF-30; City of Indianapolis and Reasonable Particularity

Dear Mr. Abel:

This is in response to your informal inquiry regarding your request made to the City of Indianapolis for records in the possession of the Department of Parks and Recreation. 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 § 5-14-1.5-1 *et seq.*

BACKGROUND

On or about October 6, 2014 you made a public records request for the following information:

1. Any and all emails, correspondence and other documents containing communications between Indy Parks or the Consolidated City of Indianapolis and A & T Wildlife Management Services created or revised from January 1, 2013 to the present.
2. Any and all contracts, proposals or draft contracts between Indy Parks or the Consolidated City of Indianapolis and A & T Wildlife Management Services created or revised from January 1, 2013 to the present.
3. Any and all emails, correspondence and other documents containing communications between Indy Parks or the Consolidated City of Indianapolis and the United States Department of Agriculture that pertain

to any deer management program and that were created or revised from January 1, 2013 to the present.

4. Any and all contracts, proposals or draft contracts between Indy Parks or the Consolidated City of Indianapolis and the United States Department of Agriculture that pertain to any deer management program and that were created or revised from January 1, 2013 to the present.

5. Any and all emails, correspondence and other documents containing communications between Indy Parks and the Mayor of the Consolidated City of Indianapolis or any employee, officer or full-time contractor working in the Office of the Mayor of the Consolidated City of Indianapolis that pertain to any deer management program and that were created or revised from January 1, 2013 to the present.

6. Any and all requests for proposals for goods or services to be provided in connection with a deer management program, which were created or revised from January 1, 2012 to the present.

7. Any and all emails, correspondence and other documents containing communications between Indy Parks or the Mayor of the Consolidated City of Indianapolis or any employee, officer or full-time contractor working in the Office of the Mayor of the Consolidated City of Indianapolis and Michael A. Jenkins, Associate Professor of Forest Ecology, Purdue University.

8. Any and all documents pertaining to public statements by Indy Parks that the number of deer in Eagle Creek Park is 5 to 10 times the number that the park can sustain without damage to the park's ecosystem.

9. Any and all studies that Indy Parks contends support the need for a deer management program for Eagle Creek Park.

10. Any and all documents pertaining to title of the land that is currently Eagle Creek Park, including any documents of conveyance to or from Purdue University or the Consolidated City of Indianapolis.

On October 7, 2014, the City responded to your request advising you that no records could be found responsive to your request, as your request was determined to not be reasonably particular. You take exception to this determination and have requested my input on the matter.

ANALYSIS

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 Indianapolis 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 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).

Under the APRA, all requests must be reasonably particular in order for the public agency to locate, retrieve and produce records responsive to the request. See Ind. Code § 5-14-3-3(a).

Although not defined in the APRA, the Indiana Court of Appeals addressed the issue of reasonable particularity in the APRA in *Jent v. Fort Wayne Police Dept.*, 973 N.E.2d 30 (Ind. Ct. App. 2012), and again in *Anderson v. Huntington County Bd. of Com'rs.*, 983 N.E.2d 613 (Ind. Ct. App. 2013). The Court in *Jent* held that:

Whether a request identifies with reasonable particularity the record being requested 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.

As to items 2, 4, 6, 8, 9, and 10, it is my subjective determination your request meets a standard of specificity appropriate for a public records request. Your request gives enough information the City could search for the documentation without it being a ‘guessing game’. Presumably the request could be directed to someone within the City’s Parks Department who can locate such records. The documents may take some time to retrieve, but I do not think these requests are too broad on their face.

As I have stated in the past, email requests generally present a number of problematic challenges for a public agency. Given the sheer amount of electronic data on an email server, a voluminous request could take a significant amount of time to produce. While technology has evolved to make searches more practical with the ability to target key word hits or parameters, the agency still has to amass those records which are protected from disclosure under other APRA exceptions.

Consider the definition of particularity in The New International Webster’s Dictionary and Thesaurus, Encyclopedic Ed., 200: “exactitude in description; circumstantiality; strict or careful attention to detail; fastidiousness.” I do believe voluminous records requests can meet that standard and agencies are required to satisfy voluminous requests, but to meet the reasonable particularity standard, they cannot be blanket requests.

When it comes to email, I generally rely on the guidance provided by the Court in *Anderson*. The Court agreed with former Public Access Counselor Hoage that a reasonably particular request names a specific sender, recipient, and date frame. I would also contend a specific request would include one or more key words for a search parameter.

Because your request did not contain all of these elements, I do not think your email requests are reasonably particular. The City's determination of such appears to be correct and their invitation to narrow your request is appropriate.

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

Best regards,

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

Luke H. Britt
Public Access Counselor

Cc: Ms. Samantha DeWester, Esq.