



STATE OF INDIANA

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April 30, 2010

Mr. Doug D. Weigart
28 Seumin St.
Brownsburg, IN 46112

*Re: Formal Complaint 10-FC-82; Alleged Violation of the Access to
Public Records Act by the Hendricks County Health Department*

Dear Mr. Weigart:

This advisory opinion is in response to your formal complaint alleging the Hendricks County Health Department (the "Department") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.*, by denying you access to public records. A copy of the Department's response to your complaint is enclosed.

BACKGROUND

You allege that you recently called the Department to make a complaint against a rental property owner. Subsequently, the Department released your name and address to the subject of your complaint, which led to the subject coming to your home and confronting you. You believe that the Department should not have given out your name and address to the property owner. Moreover, you state that if you had known the Department would do so, you would not have complained.

My office forwarded a copy of your complaint to the Department for a response. Cathy Grindstaff, director of environmental health for the Department, states that environmental complaints to the Department are not confidential. Further, when complainants express concern about whether their name will be released to the subject of the complaint, Ms. Grindstaff claims that the Department advises complainants that its environmental complaints are public records. She also notes that if the subject of a complaint seeks such information, the Department encourages the subject to "instead focus on the resolution of the environmental hazard; however since the information is public record, [the Department is] obligated to provide the name of the complainant" in response to a response under the APRA. In this case, the Department provided a copy of your complaint records to the subject of the complaint after the subject submitted a request for the records on March 9, 2010.

ANALYSIS

The public policy of the APRA states, “[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.” I.C. § 5-14-3-1. The Department is clearly a “public agency” under the APRA. I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the Department’s public records during regular business hours unless the public records are excepted from disclosure as nondisclosable under the APRA. I.C. § 5-14-3-3(a).

Agencies that deny a request for access to public records must cite a basis for doing so under the APRA. *See* I.C. §§ 5-14-3-4; 5-14-3-9. Here, there appears to be no legal basis for the Department to withhold names and addresses of persons who file environmental complaints. If no applicable state or federal law requires or allows the Department to withhold a certain record, the APRA provides that the record must be disclosed upon request. I.C. § 5-14-3-3(a). Consequently, it is my opinion that the Department did not violate the APRA by releasing your contact information upon request. If you believe that Indiana law should require such records be kept confidential, I encourage you to contact your state representative and/or senator and inquire about modifying the existing public access laws as they apply to county health departments.

CONCLUSION

For the foregoing reasons, it is my opinion that the Department did not violate the APRA.

Best regards,



Andrew J. Kossack
Public Access Counselor

Cc: Cathy Grindstaff