



STATE OF INDIANA

MICHAEL R. PENCE, Governor

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August 8, 2013

Ms. Megan L. Craig
11035 Broadway, Suite B
Crown Point, Indiana 46307

Re: Formal Complaint 13-FC-227; Alleged Violation of the Access to Public Records Act by the Lake County Assessor

Dear Ms. Craig:

This advisory opinion is in response to your formal complaint alleging the Lake County Assessor ("Assessor") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* Hank Adams, Lake County Assessor, responded in writing to your formal complaint. His response is enclosed for your reference.

BACKGROUND

In your formal complaint you provide that you hand-delivered a written request for records to the Assessor on June 18, 2013. You allege that the Assessor failed to respond in any fashion to your request. On June 25, 2013, you hand-delivered a second request to the Assessor. On July 1, 2013, the Assessor responded in writing to your request. You allege that the Assessor failed to provide all records responsive to your request. On July 2, 2013, you again requested in writing that the Assessor provide all records responsive to your request. After not receiving any response from the Assessor, you filed a formal complaint with the Public Access Counselor on August 2, 2013.

In response to your formal complaint, Mr. Adams advised that you were contacted by the agency, via telephone and email, concerning your request in July 2013 and again so on August 4, 2013. Mr. Adams further advised that you have now been provided with all records responsive to your request on two occasions. You have also been provided with the direct contact information for the Assessor's Chief Deputy should you have any further concerns.

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 I.C. § 5-14-3-1. The Assessor is a public agency for the purposes of the APRA. *See* I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the Assessor's public records during regular business hours unless the records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. *See* I.C. § 5-14-3-3(a).

A request for records may be oral or written. *See* I.C. § 5-14-3-3(a); § 5-14-3-9(c). If the request is delivered in person and the agency does not respond within twenty-four hours, the request is deemed denied. *See* I.C. § 5-14-3-9(a). If the request is delivered by mail or facsimile and the agency does not respond to the request within seven days of receipt, the request is deemed denied. *See* I.C. § 5-14-3-9(b). A response from the public agency could be an acknowledgement that the request has been received and information regarding how or when the agency intends to comply. Here, you hand-delivered a written request for records to the Assessor on June 18, 2013 and June 25, 2013. The Assessor was required to respond, in writing, within twenty-four hours of receiving your hand-delivered written request, and at a minimum acknowledge the receipt of the request. The Assessor has not disputed that it failed to respond to your June 18, 2013 and that its initial response to your June 25, 2013 request did not occur until July 1, 2013. As such, it is my opinion that the Assessor failed to comply with the requirements of section 9 of the APRA in response to your hand-delivered written requests. *See Opinions of the Public Access Counselor 05-FC-176; 11-FC-84; 11-FC-308; 12-FC-63; 12-FC-316; 13-FC-10.*

At the time of your formal complaint, you alleged that the Assessor failed to provide all records responsive to your request in the disclosure that occurred on July 1, 2013. In response to your formal complaint, Mr. Adams has advised that all records that have been requested have now been provided to you on two separate occasions and that you have been provided with the direct contact information for the Assessor's Chief Deputy, should any further concerns arise. The Public Access Counselor is not a finder of fact. Advisory opinions are issued based upon the facts presented. If the facts are in dispute, the public access counselor opines based on both potential outcomes. *See Opinion of the Public Access Counselor 11-FC-80.* Thus, it is my opinion that *if* the Assessor has now provided all records responsive to your request, there has been no further violation of the APRA (emphasis added).



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CONCLUSION

Based on the foregoing reasons, it is my opinion that the Assessor failed to comply with the requirements of section 9 of the APRA in response to your hand-delivered written requests.

Best regards,

A handwritten signature in black ink, appearing to read "J. Hoage".

Joseph B. Hoage
Public Access Counselor

cc: Hank Adams