



STATE OF INDIANA

MICHAEL R. PENCE, Governor

PUBLIC ACCESS COUNSELOR
JOSEPH B. HOAGE

Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317) 234-0906
Fax: (317) 233-3091
1-800-228-6013
www.IN.gov/pac

August 9, 2013

Mr. Gregory W. Bader
1174 Hinson Road
Martinsville, Indiana 46151

Re: Formal Complaint 13-FC-230; Alleged Violation of the Access to Public Records Act by the City of Martinsville

Dear Mr. Bader:

This advisory opinion is in response to your formal complaint alleging the City of Martinsville ("City") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* Roger T. Coffin, City Attorney, responded in writing on behalf of the City. His response is enclosed for your reference.

BACKGROUND

In your formal complaint, you allege that you submitted a written request for records for a copy of an appraisal maintained by the City. The City provided in response that while you would be able to inspect the appraisal, the City would not provide a copy.

In response to your formal complaint, Mr. Coffin advised that the Mayor was not completely informed regarding the procedures involved in complying with the APRA. A copy of the appraisal has now been provided to you.

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 City 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 City'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 24 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 (7) 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 include information regarding how or when the agency intends to comply.

Under the APRA, when a request is made in writing and the agency denies the request, the agency must deny the request in writing and include a statement of the specific exemption or exemptions authorizing the withholding of all or part of the record and the name and title or position of the person responsible for the denial. *See* I.C. § 5-14-3-9(c). Unless exempt from disclosure under state or federal law, a public agency is required to provide a copy of the requested record pursuant to the provisions of sections 3(b) and 8 of the APRA. *See Opinion of the Public Access Counselor 07-FC-105*. Here, it is my opinion that the City acted contrary to the requirements of the APRA by allowing you to inspect, but refusing to provide you with a copy of the appraisal. As the City has now rectified its error and provided a copy of the appraisal, I trust this to be in satisfaction of your formal complaint.

CONCLUSION

For the foregoing reasons, it is my opinion that the City acted contrary to the requirements of the APRA by allowing you to inspect, but refusing to provide you with a copy of the appraisal. As the City has now rectified its error and provided a copy of the appraisal, I trust this to be in satisfaction of your formal complaint.

Best regards,

A handwritten signature in black ink, appearing to read 'J. Hoage', written in a cursive style.

Joseph B. Hoage
Public Access Counselor

cc: Roger T. Coffin, Mayor Phil Deckard