



STATE OF INDIANA

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September 18, 2013

Ms. Jean D. Schoknecht
3332 South Meridian Street
Indianapolis, Indiana 46217

Re: Formal Complaint 13-FC-244; Alleged Violation of the Access to Public Records Act by the Department of Public Works of the City of Indianapolis

Dear Ms. Schoknecht:

This advisory opinion is in response to your formal complaint alleging the Department of Public Works of the City of Indianapolis (“City”) violated the Access to Public Records Act (“APRA”), Ind. Code § 5-14-3-1 *et seq.* Samantha DeWester, City Prosecutor and Public Access Counselor, responded in writing to your formal complaint. Her response is enclosed for your reference. This complaint has been previously addressed in Formal Complaint 13-FC-169.

BACKGROUND

In your formal complaint you indicated that on June 10, 2013 you hand-delivered a written request for records to the City. As referenced in Formal Complaint 13-FC-169, on June 17, 2013, the response from the City acknowledged your request and began processing the records. In the previous opinion the Public Access Counselor determined the delayed response was untimely under APRA, because it was hand-delivered to you. From the date of the issuance of that opinion until the date of your most recent complaint on August 19, 2013, you have not received an update from the City nor have you received any documentation in response to your records request.

In response to your formal complaint, Ms. DeWester acknowledged the previous violation and advised the City continues to search for all records responsive to your request and will provide said records in a reasonable period of time as required under section 3 of the APRA.

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 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.

Acknowledgment of your request was stated by the City as being on or about June 17, 2013. Your subsequent complaint was received by this Office on August 19, 2013. The City concedes that no documentation was released to you during that time period.

In your complaint, you make mention several times of the ease in which the City should be able to process the documentation and release the information to you. You have attached your original request to your complaint. I have reviewed your request and have determined it is not beyond reason the City would need a substantial amount of time to gather the information, review it, redact if needed, and disseminate it to you. The three-part request is indeed quite voluminous. The City has advised that merely a portion of the documentation satisfying Part 3 of your request is 545 pages in length.

All that being said, it is well-established by this Office and former Public Access Counselors that the most appropriate and responsive method of handling large public records request is to release those records in a piecemeal manner as they become available. This is opposed to the City’s intention of releasing them all at once. By disclosing records as they become available, the requestor is assured the public agency is working toward satisfaction of their request. If this is not practicable for the agency, then it is encouraged periodic status updates are provided to the seeker of records while the request is being processed. Although pursuant to section 3(b) of the APRA, the City has a reasonable period of time to provide all records responsive to your request; it is strongly encouraged they are mindful of the importance of records-seekers by employing one of the methods described above when handling large requests.

The City has advised this Office that the gathering of the information you requested is nearly complete and will be released to you shortly. However, it is conceivable that any further delay will be considered to be stretching the boundaries of reasonableness.

CONCLUSION

Based on the foregoing reasons, it is my opinion that the City has not acted contrary to the APRA by failing to release the records in a reasonable amount of time.

Regards,

A handwritten signature in black ink, appearing to be 'LH Britt', written in a cursive style.

Luke H. Britt
Public Access Counselor

cc: Samantha DeWester