
OPINION OF THE PUBLIC ACCESS COUNSELOR

STEVEN KOVACHEVICH,
Complainant,

v.

LAKE COUNTY AUDITOR,
Respondent.

Formal Complaint No.
22-FC-59

Luke H. Britt
Public Access Counselor

BRITT, opinion of the counselor:

This advisory opinion is in response to a formal complaint alleging the Lake County Auditor violated the Access to Public Records Act.¹ Attorney Tramel Raggs responded on behalf the Auditor's Office. In accordance with Indiana Code § 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on April 12, 2022.

¹ Ind. Code § 5-14-3-1-10.

BACKGROUND

This case involves a dispute over access to certain homestead property tax deduction forms maintained by the Lake County Auditor's Office (Auditor).

On April 11, 2022, Steven Kovachevich (Complainant) hand delivered a public records request to the Auditor seeking HC10 forms for thirteen different properties.²

The Auditor's office acknowledged the request immediately and denied access, stating HC10 documents contain private information and therefore are not accessible. The Auditor refused to redact personal information from the forms due to a lack of time.

On April 12, 2022, Kovachevich filed a formal complaint alleging the Auditor violated the Access to Public Records Act (APRA) by failing to provide even a redacted version of the forms.

The complaint notice sent to the Auditor's office prompted some indication of producing records but nothing substantive.

On May 27, 2022, the Auditor confirmed that the documents requested were gathered but still needed redactions. As of June 8, 2022, none of the requested forms had been provided to Kovachevich.

² HC10 forms are claims for Homestead Property Tax Deductions pursuant to Indiana Code section 6-1.1-12-37.

ANALYSIS

1. The Access to Public Records Act (“APRA”)

It is the public policy of the State of Indiana that all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees. Ind. Code § 5-14-3-1. Further, 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.” *Id.*

The Lake County Auditor’s Office (Auditor) is a public agency for purposes of APRA; and therefore, subject to its requirements. *See* Ind. Code § 5-14-3-2(q). As a result, unless an exception applies, any person has the right to inspect and copy the Auditor’s public records during regular business hours. Ind. Code § 5-14-3-3(a).

Indeed, APRA contains mandatory exemptions and discretionary exceptions to the general rule of disclosure. *See* Ind. Code § 5-14-3-4(a) to -(b).

2. Homestead property tax deduction forms

Here, we consider whether claim forms for homestead property tax deductions are disclosable public record.

Indiana Code section 6-1.1-12-37 addresses homestead ownership and its property tax deduction. The statute implies that the form is disclosable, even if certain portions are not:

If a form or statement provided to the county auditor under this section, IC 6-1.1-22-8.1, or IC 6-1.1-22.5-12 includes the telephone number or part or all of the Social Security number of a party or other number described in subdivision (4)(B) of a party, the telephone number and the Social Security number or other number described in subdivision (4)(B) included are confidential.

Ind. Code § 6-1.1-12-37(e). The form does indeed call for this information in two conspicuous boxes under “Claimant’s Information.” The remainder of the form does not require any other sensitive information to be provided.

Therefore, the exercise of redaction should be quick and painless. The redaction of two boxes on thirteen specific forms should take a matter of minutes.

Notably, APRA requires an agency, within a reasonable time after a request is received, to provide the records or issue a statutorily justified denial. *See* Ind. Code § 5-14-3-3(b). Even if records are not provided on-the-spot, the Auditor should have had ample time to fulfill this request during the two months since the request was submitted.

The request provided parcel numbers and addresses for each of the thirteen properties. Even if it was raised by the Auditor, reasonable particularity or specificity should not be an issue here.

CONCLUSION

Given that nearly sixty days has passed from the initial request and based on the relative simplicity of the documents sought, the Lake County Auditor has exceeded a reasonable time to produce the records requested by Kovachevich. As such, the Auditor's office should immediately provide the records to the Complainant upon receipt of this opinion.



Luke H. Britt
Public Access Counselor

Issued: June 8, 2022