



STATE OF INDIANA

MICHAEL PENCE, Governor

**PUBLIC ACCESS COUNSELOR
LUKE H. BRITT**

Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317)233-9435
Fax: (317)233-3091
1-800-228-6013
www.IN.gov/pac

August 11, 2015

Mr. Kevin M. Quinn, Esq.
Bose McKinney & Evans LLP
Attorneys at Law
111 Monument Circle, Suite 2700
Indianapolis, Indiana 46204

Re: Informal Inquiry 15-INF-22; Timeliness

Dear Mr. Quinn:

On July 22, 2015, you requested an informal opinion regarding the actions of the City of Lebanon ("City") and the Clerk-Treasurer, Tonya Thayer, acting on behalf of the city. Pursuant to Ind. Code § 5-14-3-1, I issue the following informal opinion in response to your inquiry.

You allege that the City has acted contrary to the Access to Public Records Act ("APRA") for not providing the requested materials or status updates of your request for records. Your inquiry seeks determination as to whether these actions amount to a violation of APRA laws.

Ind. Code § 5-14-3-3(b) states:

Within a reasonable time after the request is received by the agency, the public agency shall either:

- (1) provide the requested copies to the person making the request; or
- (2) allow the person to make copies:
 - (A) on the agency's equipment; or
 - (B) on the person's own equipment.
 - (C) Notwithstanding subsections (a) and (b),

As mandated by the APRA, the Clerk-Treasurer acknowledged your request within seven days. Acknowledgment is not merely sufficient, however. For the purposes of providing the requested records, the public agency is expected to provide them within a reasonable amount of time.

The Clerk-Treasurer has stated that she does not have any of the information you have requested and will try to locate it with the Parks Department Superintendent. However, she has not given any timeline and only responded after you had followed up more than once. She also initially acknowledged your original request saying she would respond as soon as she can, rather than telling you she did not have the information and directing you to someone who did have it, as you had previously asked. It has been more than thirty (30) days since your request indicating that she is untimely. The Clerk-Treasurer should have given a more detailed follow up as to her search or provided any record in her possession. I hope that in moving forward she is more transparent with her timeline and with her efforts to produce the public records you have asked for.

Despite the relative complexity of your request, I would consider the lack of any kind of status update or progress report to be contrary to the timeliness requirements of a public access production response. At the very least, an update or a piecemeal disclosure of a portion of the records would be demonstration of effort.

Please do not hesitate to contact me with any questions.

Best regards,

A handwritten signature in black ink, appearing to read 'LH Britt', with a large, sweeping flourish underneath.

Luke H. Britt
Public Access Counselor