



STATE OF INDIANA

MICHAEL R. PENCE, Governor

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July 14, 2015

Mr. Andrew Klinger
11501 E. Washington Street
Cumberland, Indiana 46229

Re: Formal Complaint 15-FC-176; Alleged Violation of the Access to Public Records Act by the Indianapolis Department of Code Enforcement

Dear Mr. Klinger,

This advisory opinion is in response to your formal complaint alleging the Indianapolis Department of Code Enforcement ("Department") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* On July 1, 2015, the Department responded via Ms. Samantha DeWester, Esq. Her response is enclosed for your review. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on June 4, 2015.

BACKGROUND

Your complaint dated June 4, 2015 alleges the Indianapolis Department of Code Enforcement violated the Access to Public Records Act by failing to provide the records you requested.

On May 22, 2015, you appeared in person at the Indianapolis Office of Code Enforcement to formally request a copy of the records listed. You also said you wished to inspect the record. To date, you have not received your records nor received any communication from the Department.

In her response, Counselor DeWester acknowledges the Department of Code Enforcement was delayed in its acknowledgement of the request; however, she notes the original failure to respond did not constitute a denial, because the APRA provides a reasonable time for production of records.



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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 Ind. Code § 5-14-3-1. The Indianapolis Department of Code Enforcement is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Accordingly, any person has the right to inspect and copy the Department’s disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14- 3-3(a).

A request for records may be oral or written. See Ind. Code § 5-14-3-3(a); § 5-14-3-9(c). If the request is delivered in person on site and the agency does not respond within 24 hours, the request is deemed denied. *See* Ind. Code § 5-14-3-9(a). An acknowledgement could occur simultaneously with the filing of your public records request. An oral request for records does not necessitate a written acknowledgement, however, I encourage agencies to do so in order to provide the requestor with a tangible receipt of the request and avoid any confusion.

After this acknowledgement, a public agency has a reasonable amount of time to produce the record. See Ind. Code § 5-14-3-3. Although you requested an immediate response, an agency has a reasonable time to compile the records. You filed your request on June 4, 2015 after approximately eight (8) business days had elapsed. While the files you requested were fairly routine, the size of the agency and number of pending public records requests factor into what is considered ‘reasonable’ timeliness. These are unknown quantities in this case and so therefore, I cannot make a conclusive determination. The City indicates the records were subsequently found and it is my sincere hope you have received them in the meantime.

Regards,

A handwritten signature in black ink, appearing to read "L. H. Britt", written in a cursive style.

Luke H. Britt
Public Access Counselor



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Cc: Ms. Samantha DeWester, Esq.