



STATE OF INDIANA

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May 10, 2011

Ms. April Stuttle
905 S. Main St.
Jonesboro, IN 46938

*Re: Formal Complaint 11-FC-98; Alleged Violation of the Access to
Public Records Act by the City of Jonesboro*

Dear Ms. Stuttle:

This advisory opinion is in response to your formal complaint alleging the City of Jonesboro ("City") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* My office forwarded a copy of your complaint to the City on April 11th. The City's response from Clerk-Treasurer Karen Owen is enclosed for your review.

BACKGROUND

In your complaint, you allege that you hand-delivered a records request to the City on April 6, 2011. As of April 8, 2011, you had received no response to that request. Your request sought fund reports and claims paid for March 2011.

On April 22, 2011, Ms. Owen responded on behalf of the City. In her response she stated that the City would comply with your records requests by April 26, 2011.

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." I.C. § 5-14-3-1. The City is a public agency for the purposes of the APRA. 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. I.C. § 5-14-3-3(a).

A request for records may be oral or written. I.C. § 5-14-3-3(a); § 5-14-3-9(c). 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. I.C. § 5-14-3-9(b). If the request is delivered in person and the agency does not respond within 24 hours, the request is deemed denied. I.C. § 5-14-3-9(a). 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.

Ms. Owen's April 22nd response assured us that the City would comply with your request by April 26th. However, it appears that the City did not initially respond to your request in the timeframe required by the APRA. I have no information before me indicating that the City responded to your hand-delivered request dated April 6, 2011. Thus, under subsection 9(b) of the APRA, that request was, by definition, denied as of April 7th. If the City intended to grant your request, it simply needed to respond within the APRA's timelines. I trust that the City responded by April 26th in satisfaction of your complaint.

CONCLUSION

For the foregoing reasons, it is my opinion that the City should have responded to your April 6th hand-delivered request within twenty-four (24) hours. If the City has now produced all responsive records, it has not otherwise violated the APRA.

Best regards,



Andrew J. Kossack
Public Access Counselor

cc: Karen Owen