



# STATE OF INDIANA

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September 12, 2014

Mr. David Garrett  
10430 Driver Drive  
Evansville, IN 47725

*Re: Formal Complaint 14-FC-171; Alleged Violation of the Access to Public Records Act by the City of Evansville*

Dear Mr. Garrett,

This advisory opinion is in response to your formal complaint alleging the City of Evansville ("City") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* The City responded to your complaint via Counsel Dirck H. Stahl. His 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 August 7, 2014.

## BACKGROUND

Your complaint, dated August 7, 2014, alleges the City of Evansville violated the Access to Public Records Act by delaying the production records responsive to your request.

You allege that on or about April 24, 2014, you submitted a records request to the City seeking financing information for the downtown arena project. On June 23, 2014, the City apparently sent you documentation you were not seeking. In an email on July 3, 2014, a City staffer informed you they failed to understand your request. On July 16, 2014, you clarified your request and were denied on July 18, 2014, as the City claimed they did not have the information requested.

The City has responded by indicating the misunderstanding is due to a change in administration and a confusion regarding financing terminology. They have also supplemented their request with other information on August 7, 2014 and may still be working to identify documents responsive to your request.

## **ANALYSIS**

The public policy of the APRA states that “a (p) roviding person 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 City of Evansville 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 City’s 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).

It appears as if the City’s failure to provide you with the documents you seek was a product of misunderstanding on both sides. Mr. Stahl seeks to explain the situation in the City’s response. Additionally, the current administration seems to be at the mercy of the previous administration’s record-keeping system and is currently untangling the bureaucratic web of previous custodians. The public is placed at a disadvantage when these kinds of situations occur and agencies should be particularly mindful of being good stewards of information during transitions in administrations.

Based on the nature of the records, you are entitled to the information you seek as they impact public and taxpayer funds. I can infer the City is willing to work with you to provide you the documentation once everything is identified. My suggestion is simply they do so in an expeditious manner as your request has been pending since April 2014. Sometimes the best way to straighten out these misunderstandings is a simple phone conversation. As you can see, I have copied the City’s counsel on this Opinion. Perhaps a telephone call from someone in City finance could be placed to you as soon as possible to resolve this disagreement. As always, my Office is more than willing to facilitate such a conversation.

## **CONCLUSION**

For the foregoing reasons, it is the Opinion of the Public Access Counselor that the City of Evansville did not violate the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to read 'LHB', with a long horizontal flourish extending to the left.

Luke H. Britt  
Public Access Counselor

Cc: Mr. Dirck H. Stahl, Esq.