



# STATE OF INDIANA

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September 21, 2016

Mr. Doug Callahan  
C/o Clay Township Trustee's Office (Hamilton County)  
10701 North College Avenue, Suite B  
Indianapolis, Indiana 46280

*Re: Formal Complaint 16-FC-193; Alleged Violation of the Access to Public Records Act by Pike Township Trustee's Office (Marion County)*

Dear Mr. Callahan:

This advisory opinion is in response to your formal complaint alleging the Pike Township Trustee's Office ("Pike Township") violated the Access to Public Records Act ("APRA"), Indiana Code § 5-14-3-1 et. seq. The Township has responded via Mr. Stephen R. Buschmann, Esq. His response is enclosed for your review. Pursuant to Indiana 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 9, 2016.

## **BACKGROUND**

Your complaint dated August 3, 2016, alleges the Pike Township Trustee's Office violated the Access to Public Records Act by failing to provide the records you requested. On or about August 2, 2016, the Clay Township Office sent a request to Pike Township for "notes on file" of an applicant for Township Assistance. After consideration of the matter, Pike Township withheld the notes. In its response Pike Township states it considers the notes confidential based upon Indiana Code § 12-20-7-5 and were properly withheld upon request.

## **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 Indiana Code § 5-14-3-1*. The Pike Township Trustee's Office is a public agency for the purposes of the APRA. *See Indiana Code § 5-14-3-2(n)(1)*. Accordingly, any person has the right to inspect and copy the Trustee's disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. *See Indiana Code § 5-14-3-3(a)*.

A request for records may be oral or written. *See Indiana Code § 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. *See Indiana Code § 5-14-3-9(b)*. A response from the public agency could be an acknowledgement the request has been received and information regarding how or when the agency intends to comply.

When an individual applies for township assistance, the individual must fill out a consent form which allows the Township to share certain confidential information with certain other public agencies and providers necessary to effectuate assistance. Indiana Code § 12-20-7-5 declares information received by the Township from that particular form to be confidential. It must only be shared in connection with the administration of the township trustee's assistance program. Apparently the notes in question were taken from that consent form.

My advice to public agencies has always been to work together to share information necessary for the administration of a government program or initiative. The safeguard of sharing confidential information is found at Indiana Code § 5-14-3-6.5 (A public agency that receives a confidential public record from another public agency shall maintain the confidentiality of the public record). Client notes may or may not be necessary to share, but I do not interpret anything in Indiana Code § 12-20-7 to prohibit sharing of information with another township trustee's office for the purpose of administering an assistance program.

It appears as if both offices have the same ultimate goal and the customer would be best served by cooperation of the agencies. While I do not believe Pike Township is obligated to share confidential information with Clay Township, it appears as if sharing might have avoided a difficult situation with the applicant during a later appointment. As public agencies and officials, we are all working for the good of the public. I encourage both Township offices to keep that in mind and in perspective.

### CONCLUSION

Based on the forgoing, it is the opinion of the Public Access Counselor the Pike Township Trustee's Office has not violated the Access to Public Records Act.

Regards,

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

Luke H. Britt  
Public Access Counselor

Cc: Mr. Stephen Buschmann, Esq.