



STATE OF INDIANA

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September 16, 2016

Mr. Bruce Bottorff
590 Main Street
Charlestown, Indiana 47111

Re: Formal Complaint 16-FC-196; Alleged Violation of the Access to Public Records Act by the City of Charlestown

Dear Mr. Bottorff:

This advisory opinion is in response to your formal complaint alleging the City of Charlestown ("City") violated the Access to Public Records Act ("APRA"), Indiana Code § 5-14-3-1 et. seq. The City has responded via City Attorney, Mr. Michael A. Gillenwater, 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 11, 2016.

BACKGROUND

Your complaint dated August 8, 2016, alleges the City of Charlestown violated the Access to Public Records Act by failing to produce the records you requested.

On or about July 20, 2016, you submitted the following public records request to the City:

I wish to obtain a copy of all letters issued to owners of property within the city limits, during the years 2012, 2013, and 2014, in which the owner(s) were advised that they were subject to fines for violations of the city property codes. I am requesting only the cover letters, and do not wish to receive a copy of the city property codes, or any other attachments to the letters.

On August 3, 2016, the City responded by stating the request was overly broad and not specific and invited you to narrow your request by specific addresses. This argument was reiterated in the City's response to your formal complaint as well.

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 City of Charlestown 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 City’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.

The one obligation on the part of a requester of public records is that they identify the documents they are seeking with specificity. Indianan Code § 5-14-3-3 states: A request for inspection or copying must identify with reasonable particularity the record being requested. The definition of ‘reasonable particularity’ has been debated ad nauseum and addressed by this Office many times. “Particularity” as used in the APRA is defined as “the quality or state of being particular as distinguished from universal.” *Merriam-Webster Online, www.m-w.com*.

You have identified an entire category of records without any other search parameters or bounds of limitation. There could be hundreds or thousands of records. Or conversely, there could be only a handful. Either way, you are asking the City to undergo an expansive research project. A specific request would include an address or particular name and a six-month or less timeframe. Anything else is merely a fishing expedition with a broad net hoping to catch records which may or may not exist.

CONCLUSION

Based on the forgoing, it is the opinion of the Public Access Counselor the City of Charlestown has not violated the Access to Public Records Act.

Regards,



Luke H. Britt
Public Access Counselor

Cc: Mr. Michael A. Gillenwater, Esq.