
OPINION OF THE PUBLIC ACCESS COUNSELOR

TYLER MENDENHALL,
Complainant,

v.

CITY OF FISHERS,
Respondent.

Formal Complaint No.
17-FC-182

Luke H. Britt
Public Access Counselor

BRITT, opinion of the Counselor:

This advisory opinion is in response to a formal complaint alleging the City of Fishers (“City”) violated the Access to Public Records Act¹ (“APRA”). The City responded to the complaint through City Attorney Mr. Christopher Griesl. The City’s response is enclosed for review. In accordance with Indiana Code § 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on July 27, 2017.

¹ Ind. Code §§ 5-14-3-1 to -10.

BACKGROUND

Tyler Mendenhall (“Complainant”) contends the City violated the APRA by failing to provide access to documents within a reasonable time.

On June 15, 2017, Mendenhall requested the following records from the City of Fishers:

...copies of public records (electronic or print) that related to the City of Fishers and its interactions regarding the Indiana Transportation Museum, Hoosier Heritage Port Authority, as well as the Nickel Plate Trail proposal.

Specifically but not limited to the following: Track inspection/consultant reports received in the last five years – Any grant proposals (funded and unfunded) submitted in the past 5 years pertaining to the Nickel Plate corridor or relevant, related projects. All emails and other correspondence to or from The Mayor’s office in the past five years, related to the Nickel Plate Railroad, Nickel Plate Trail, Indiana Transportation Museum, including but not limited to City of Noblesville, City of Fishers, Hamilton County, the Hoosier Heritage Port Authority, Hamilton County Tourism (Visit Hamilton County), Marion County, INDOT, the State of Indiana, the Federal Railroad Administration potential land developers/planners interest is [sic] property near or on the Nickel Plate corridor. Financial reports related to railroad operations. Reports, Studies, Developmental Proposals as well as in-

voices, bids and contracts from United Consulting or other development, contracting and engineering firms regarding the Nickel Plate rail corridor. The original purchase documentation when the rail line was acquired. City Council Executive meeting minutes, agendas, and dates for the past 5 years.

The City acknowledged Mendenhall's request the day after he submitted it. The City stated that it anticipated having the records or an update of the progress made by July 15, 2017. On July 18, 2017, the Complainant sent an email to the City to follow up on the request. The City indicated that the request was under review and responsive documents should be produced within a few weeks. Mendenhall filed a formal complaint against the City with this Office on July 27, 2017.

On August 11, 2017, the City produced 263 documents responsive to Complainant's request. The City disputes the Complainant's claim that an APRA violation occurred. Specifically, the City argues that the complexity of the request warranted any delay in production.

ANALYSIS

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." Ind. Code § 5-14-3-1. The City of Fishers is a public agency for the purposes of the APRA. *See* Ind. Code § 5-14-3-2(n). Therefore, 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* Ind. Code § 5-14-3-3(a). A public agency is required to make a response to a written request that has been mailed within seven days after it is received. *See* Ind. Code § 5-14-3-9(c).

The City appears to have satisfied the entirety of Mendenhall's public records request in approximately 60 calendar days. Quite frankly, I am surprised the City honored the request at all. Mendenhall's request is as complex as it is imprecise. If the City would have contacted me before undertaking a search for documents, I likely would have recommended it invite the Complainant to narrow his search significantly. Therefore, a great deal of credit goes to the City for accepting the request as written and searching for the documents. The request does not meet this Office's standards for reasonable particularity under Ind. Code § 5-14-3-3. Yet, the City went above and beyond in fulfilling it.

As the City states, what constitutes a *reasonable time* cannot be consistently quantified but is fluid from request to request depending on the circumstances—including the nature of the request. That is to say, the request may have been fulfilled sooner had it not been so cumbersome and nebulous. The City has acted in a manner consistent with (and superior to) the spirit and letter of the Access to Public Records Act.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor that the City of Fishers has not violated the Access to Public Records Act.

A handwritten signature in black ink, appearing to read 'LHB', is positioned above the printed name.

Luke H. Britt
Public Access Counselor