
OPINION OF THE PUBLIC ACCESS COUNSELOR

RON WILKINS
Complainant,

v.

FAIRFIELD TOWNSHIP TRUSTEE,
Respondent.

Formal Complaint No.
21-FC-152

Luke H. Britt
Public Access Counselor

BRITT, opinion of the counselor:

This advisory opinion is in response to a formal complaint alleging the Fairfield Township Trustee violated the Access to Public Records Act.¹ Trustee Taletha Coles submitted statement on behalf of her office. 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 September 20, 2021.

¹ Ind. Code § 5-14-3-1 to -10.

BACKGROUND

In this case we consider whether the Fairfield Township Trustee (Trustee) violated the Access to Public Records Act (APRA) regarding the production of public records.

On September 17, 2021, Ron Wilkins (Complainant), a reporter with the *Journal & Courier*, delivered a written request to Fairfield Township Trustee Taletha Coles. The request sought to inspect detailed and itemized expenditures from the township's rainy-day fund, the township credit cards, and township assistance funds within a set timeframe.

Coles responded the same day describing the request as harassing demands. Coles later insisted Wilkins submit the request on a "proper state form." The form she submitted appears to be an adapted public records request form adapted from the Indiana Alcohol and Tobacco Commission, with the that agency's address whited out and "FAIRFIELD" stamped where the prior address was located on the form. Notably, the acronym ATC still appeared on the form.

Instead of responding substantively to the complaint, Coles chose to take the opportunity to lodge grievances about the newspaper and considers its reporting tactics to be harassing. She also complained at length about the Fairfield Township Board. She considers requests for information to be vexatious and harassing. She considers the information to have already been provided and that the requests – and subsequent complaint – are a "set up."

ANALYSIS

1. The Access to Public Records Act

The Access to Public Records Act (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 Fairfield Township Trustee’s Office is a public agency for purposes of APRA; and therefore, subject to its requirements. *See* Ind. Code § 5-14-3-2(q). As a result, unless an exception applies, any person has the right to inspect and copy the Trustee’s public records during regular business hours. Ind. Code § 5-14-3-3(a).

2. Trustee’s Duties

A township trustee is statutorily obligated to keep township records open for inspection under Indiana law. *See* Ind. Code § 36-6-4-3(3). Notably, subsections (5) and (6) of that statute also require a trustee to receive and pay out township funds; and to examine and settle all accounts and demands chargeable against the township.

Therefore, there can be no question that the financial, business, and operational records of the township’s administrative duties should be open to anyone who cares to inspect them at any reasonable time during the business day.²

The Trustee initially argues that she did not consider the email from Wilkins to be a legitimate public records request.

² Implicit in the opportunity to inspect is the opportunity to receive a copy as well although a fee may apply.

However, unless the Trustee has curated a written form specifically for APRA requests, she should consider any request for documentation or records to be akin to an APRA request and should proceed according to that statute. Notably, a written form can be utilized for tracking and organizational purposes. *See* Ind. Code § 5-14-3-3(a)(2).

Here, however, it appears that the Trustee hastily doctored a State public records request form after Wilkins' submission and co-opted it to force him to resubmit the request. It is unclear what the Trustee's motivations were, but this office cannot in good conscience ratify her actions.

Implicit in the duty to keep the township records open to public inspection is a reasonable effort to update those records. Simply put, if the records aren't made available, there is no way for the public to inspect. Given the relatively small number of transactions by a small government unit like a township, the availability of records should not be difficult.

I encourage the Trustee to re-familiarize herself with her statutory duties under both Title 36 and the Access to Public Records Act. Based on the information provided, there is no way to consider the request – or this complaint – to be harassing or vexatious by any reasonable measure.

The public, including the media, has the right to inspect any township's transactional records within a reasonable time. Full stop. The Trustee has not provided any credible reasoning as to why she would be an exception in this circumstance.

CONCLUSION

Based on the foregoing, it is the opinion of this office that the Fairfield Township Trustee has violated the Access to Public Records Act.



Luke H. Britt
Public Access Counselor