



STATE OF INDIANA

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Re: Complaint 25-FC-142
Jeffery Gorham (Complainant) v.
City of Fishers (Respondent)

This advisory opinion is in response to the above-referenced complaint filed July 7, 2025.

A Notice of Complaint, along with a copy of the complaint, was sent to the Respondent on October 15, 2025, requesting a formal response by November 13, 2025. A formal response, submitted by Corporation Counsel Lindsey Bennett on behalf of Respondent, was received in this office on November 12, 2025.

The complaint alleges that Respondent violated the Access to Public Records Act (APRA) by failing to provide copies of the public records within a reasonable time.

ANALYSIS

The public policy of 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.” Indiana Code (IC) 5-14-3-1. Respondent is a public agency for purposes of APRA; and therefore, subject to the requirements. IC 5-14-3-2(q). As a result, unless an exception applies, any person has the right to inspect and copy public records during regular business hours. IC 5-14-3-3(a).

A public agency may not deny or interfere with the exercise of the right stated above. If the public agency does not deny the request, within a reasonable time after the request is received by agency the public agency shall either:

- (1) Provide the requested copies to the person making the request; or
- (2) Allow the person to make copies:
 - (A) on the agency's equipment; or
 - (B) on the person's own equipment.

Complainant states that on May 9, 2025, he had requested records from Respondent for “any/all permits and building plans for (Complainant’s address) pertaining to the Deck, Pergola, and finished basement”. Respondent acknowledged the request on May 9, 2025, but at the date of filing the complaint, Complainant had not received any of the requested records. Respondent stated in its formal response that all responsive records were provided to Complainant on August 11, 2025.

APRA does not define the term “reasonable time”. This office has in the past provided guidance on what would be considered a reasonable time for purposes of compliance with the APRA provisions. An informal benchmark this office observes for a typical response time would be thirty (30) days from the receipt of the request. *Opinion of the Public Access Counselor 20-FC-87.*

However, this office has further observed that many requests cannot be fulfilled within thirty (30) days for a variety of reasons. In those circumstances, this office considers the following factors:

- (1) the size of the public agency;
- (2) the size of the request;
- (3) the number of pending requests;
- (4) the complexity of the request; and
- (5) any other operational considerations or factors that may reasonably affect the public records process.

Opinion of the Public Access Counselor 25-FC-034.

Complainant’s record request was reasonably particular. It was not voluminous or complex.

The operational limitations were outlined by Respondent as limited staff, large volume of APRA requests, and routine duties of staff other than APRA requests. However, IC 5-14-3-1 begins:

A fundamental philosophy of the American Constitutional form of representative government is the servant of the people and not their master. Accordingly, it is the public policy of the state that all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees....

“Simply put, unless extraordinary circumstances are involved, 90 days is much too long to wait on a public records request without receiving any information.” *Opinion of the Public Access Counselor 20-FC-19.*

Recently, Complainant stated that he never received any response or records, even after checking his “spam” and “junk” folders. Respondent provided documentation of the two (2) emails with attachments sent to Complainant on August 11, 2025, which our office forwarded to Complainant. Respondent’s response included what appeared to be printouts from the permit and possibly inspection databases. It did not include copies of the permits as filed or building plans, which Complainant requested. With the information provided by Respondent on August 11, 2025, Complainant may want to request the documents not received.

Upon considering the limited nature of the record request and the challenges expressed by the Respondent in meeting APRA requests, the time span from May 9, 2025, until August 11, 2025, or 94 days, to produce the documents appears to be unreasonable for the limited records requested and received.

CONCLUSION

This office finds that the Respondent violated APRA by failing to provide records within a reasonable time.



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