



STATE OF INDIANA

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August 11, 2026

Re: Complaint 25-FC-380
Amy L. Losinski (Complainant) v.
City of Michigan City (Respondent)

This advisory opinion is issued in response to the above-referenced complaint filed December 3, 2025.

A Notice of Complaint, along with a copy of the complaint, was sent to the Respondent on February 18, 2026, requesting a formal response by March 18, 2026. A formal response, submitted by Amber Lapaich-Stalbrink, Office of Corporation Counsel on behalf of Respondent, was received by this office on March 12, 2026.

The complaint alleges that Respondent violated the Access to Public Records Act (APRA) by failing to provide copies of the requested records in a timely manner.

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 Respondent’s public records during regular business hours. IC 5-14-3-3(a).

Complainant filed an APRA request on September 8, 2025, requesting the following records:

- 1) The date the Phoenix Investors LLC petitioned for a specific address to be used as a data center.
- 2) A copy of a letter, believed to be April 30, 2025 that allowed it.

3) Any and all studies that were completed to determine that data centers were similar to another listed use in M1.

Complainant acknowledges Respondent's responses of September 10 and 15, 2025, where the Fire Department and City Engineer, and the Water Works Department, respectively, had no responsive records. Complainant submitted a request for status of the records request on September 29, 2025, with no response.

The formal response of Respondent stated that the City had been the victim of a cyberattack, beginning September 23, 2025, which had resulted in a disruption of the City's network. The computer network was immediately shut down and did not return to partial operation for certain departments until the end of October and full operation including the remaining departments until November.

Respondent then sent Complainant a final response, after receiving the Notice of Complaint for this complaint on February 27, 2026, and informing her that other than the zoning certification letter there was no petition filed and no other responsive records. Respondent also directed Complainant to the City's website to a link that contained information regarding the data center, the primary subject of the APRA request. The fulfillment of the records request and referral to the website was not made until after the complaint was filed.

However, the principal issue of the complaint remains whether the response was made in a reasonable time. Complainant alleges that Respondent did not respond to the record requests in a reasonable time frame.

APRA provides that if the public agency does not deny the request, within a reasonable time after the request is received by the agency the agency shall provide the requested copies to the person making the request. IC 5-14-3-3(b).

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. *Advisory 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.

The sequence of events seems to have been:

- 1) September 8, 2025, Complainant submitted APRA Requests.
- 2) September 10, 2025, Complainant received acknowledgement from Respondent.
- 3) September 11, the Fire Department and City Engineer responded to Complainant that no such documents existed.
- 4) September 15, 2025, the Department of Water Works responded to Complainant that no such documents existed.
- 5) September 23, 2025, Respondent experienced a cyberattack, which caused computer network disruptions.
- 6) September 25, 2025, Respondent published a press release stating that on September 23, 2025, it experienced a computer network disruption, which they took immediate steps to mitigate and bring systems online. However, it says: “the investigation is still in its very early stages, we do not have a clear timeline for when we will be fully restored.”
- 7) September 29, 2025, Complainant emailed Respondent asking if she would be getting other records from other departments or if her APRA request is complete. Respondent states in its response that it did not receive this email and was not made aware of it until it received the Complaint on February 18, 2025. Complainant forwarded the September 29, 2025, follow-up email to our office.
- 8) Sometime between the end of October for some departments and November for other departments, Respondent was unable to retrieve and produce responsive documents or receive and respond to emails.

- 9) From Respondent's response, Complainant did not follow up with Respondent again between September 29, 2025, and the filing of her complaint with this office on December 3, 2025.

Complainant was aware of the cyberattack because of the press release she recently submitted. However, she misinterpreted the press release to believe that the effects of the cyberattack were over on September 25, 2025.

Nevertheless, as Respondent was responsible to fulfill Complainant's September 8, 2025, APRA Request and delegated it to several departments who responded on a rolling basis. Respondent, regardless of Complainant's September 29, 2025, email, should have let Complainant know when it considered Complainant's APRA response to be complete.

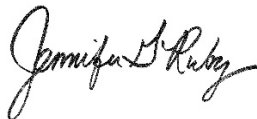
Respondent came back online in November but failed to notify Complainant of the reason for the delay or that her APRA response was complete until February 27, 2026, which was after the Notice of Complaint was received by Respondent. The response included a letter of certification and the conclusion that no other records were found to be responsive to the request.

While not discounting the emergency technical support and effort, including lack of daily access to an operating system, required to return the computer network to be fully functioning in order to do a search of the records, it is an unreasonable amount of time, nearly three (3) additional months from December to the end of February, to determine that no records exist and to let Complainant know that her records request was complete.

Both Respondent and Complainant should know when an APRA request has been closed. Complainant opened her APRA request on September 8, 2025, but it was not closed until February 27, 2026, more than five (5) months later.

CONCLUSION

This office finds that the Respondent violated APRA as alleged in the complaint.



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Public Access Counselor