



STATE OF INDIANA

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March 2, 2009

Mary Tanis
2610 Lakewood Drive
Dyer, Indiana 46311

Re: Formal Complaint 09-FC-33; Alleged Violation of the Access to Public Records Act by the Saint John Township Trustee (Lake County)

Dear Ms. Tanis:

This advisory opinion is in response to your formal complaint alleging the Saint John Township Trustee ("Trustee") violated the Access to Public Records Act ("APRA") (Ind. Code 5-14-3) by failing to provide you copies of records after you remitted payment of the copy costs. It is my opinion the Trustee did not violate the APRA.

BACKGROUND

You allege that on December 16, 2008 you submitted a request for copies of records maintained by the Trustee. You received communication from the Trustee indicating you must pay the \$.60 copy costs in advance of receiving the copies. You include a copy of a December 23 electronic mail message from the Trustee, wherein the office indicated that after receipt of payment the office would notify you of the date you could pick up the records. You allege you received a receipt for payment on January 16, 2009. You mailed the complaint on January 22, alleging you had not yet received the copies. My office received the complaint on January 29.

The Trustee responded to the complaint by electronic mail message dated January 29 from Trustee Jean Shepherd. The Trustee contends that her office sent you a letter on January 12. The Trustee included a copy of the letter, wherein the office indicated the copy costs amounted to \$.60 and indicated that after you submitted payment you could pick up the documents at the office or could request to have them mailed by the Trustee. Hearing nothing further from you, the Trustee mailed the records to you on January 27.

ANALYSIS

The public policy of the APRA states, "[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." I.C. § 5-

14-3-1. The Trustee is clearly a public agency for the purposes of the APRA. I.C. § 5-14-3-2(m). Accordingly, any person has the right to inspect and copy the public records of the Trustee during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. I.C. § 5-14-3-3(a).

A request for records may be oral or written. I.C. §§ 5-14-3-3(a), 5-14-3-9(c). If the request is delivered by mail, facsimile, or electronic mail and the agency does not respond to the request within seven days of receipt, the request is deemed denied. I.C. § 5-14-3-9(b).

A response could be an acknowledgement that the request has been received and information regarding how or when the agency intends to comply. There are no prescribed timeframes when the records must be produced by a public agency. A public agency is required to regulate any material interference with the regular discharge of the functions or duties of the public agency or public employees. I.C. § 5-14-3-7(a). However, section 7 does not operate to deny to any person the rights secured by section 3 of the Access to Public Records Act. I.C. § 5-14-3-7(c). The public access counselor has stated that records must be produced within a reasonable period of time, based on the facts and circumstances.

Here, you remitted payment on January 16. In the January 12 letter from the Trustee was an indication you could pick up the records after remitting payment or the Trustee could mail the records to you. In my opinion, this response is sufficient from the Trustee. Nothing in the APRA provides how records are to be delivered to a requester, and in my opinion the Trustee's offer to hold the records for you or mail the records to you was appropriate.

CONCLUSION

For the foregoing reasons, it is my opinion the Trustee has not violated the APRA.

Best regards,



Heather Willis Neal
Public Access Counselor

Cc: Jean Shepherd, Saint John Township Trustee