



STATE OF INDIANA

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December 4, 2009

Ms. Sonja Graf
6364 N. Kivett Road
Monrovia, IN 46157

Re: Formal Complaint 09-FC-257; Alleged Violation of the Access to Public Records Act by the Gregg Township Advisory Board

Dear Ms. Graf:

This advisory opinion is in response to your formal complaint alleging the Gregg Township Advisory Board ("Township") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* For the following reasons, my opinion is that the Township violated the APRA.

BACKGROUND

In your complaint, you allege that the Township failed to respond to your request for access to public records. You also note that the Township has failed to produce records that it has promised to produce to you in the past. My office forwarded a copy of your complaint to the Township. As of the date of this opinion, we received no response.

ANALYSIS

The public policy of the 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." I.C. § 5-14-3-1. Any person has the right to inspect and copy the public records of a public agency during regular business hours unless the public records are exempt from disclosure as confidential or otherwise nondisclosable under the APRA. I.C. § 5-14-3-3(a). The Township does not contest that it is a public agency for the purposes of the APRA. I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the public records of the Township during regular business hours unless the records fall within one of the APRA's exceptions to disclosure. I.C. § 5-14-3-3(a).

It is my opinion that Township violated the APRA insofar as it failed to respond to your written request within seven (7) days. The APRA provides that an agency's failure to respond to a written request within seven (7) days constitutes a denial of access. I.C. § 5-14-3-9(b). Under the APRA, a public agency may deny a request if: (1) the denial is in writing or by facsimile; and (2) the denial includes: (A) a statement of the specific exemption or exemptions authorizing the withholding of all or part of the public record; and (B) the name and the title or position of the person responsible for the denial. I.C. § 5-14-3-9(c). In my opinion, the Township's failure to provide you with any response violated section 9 of the APRA. I encourage the Township to either disclose the records to you or cite a specific statutory basis for refusing to do so.

You also allege that the Township has assured this office and you that it will produce other sets of records in response to your previous requests. To the extent an agency persists in its denial of access following the issuance of an advisory opinion from this office, I leave you to your remedies before a court pursuant to Ind. Code § 5-14-3-9(e).

CONCLUSION

For the foregoing reasons, it is my opinion that the City violated the APRA.

Best regards,



Andrew J. Kossack
Public Access Counselor

cc: Joshua Hause, Gregg Township Advisory Board