



# STATE OF INDIANA

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June 4, 2010

Mr. Tracey L. Wheeler  
4490 W. Reformatory Road  
Pendleton, IN 46064

*Re: Formal Complaint 10-FC-111; Alleged Violation of the Access to  
Public Records Act by the City of Terre Haute*

Dear Mr. Wheeler:

This advisory opinion is in response to your formal complaint alleging the City of Terre Haute (the "City") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-3 *et seq.*, by denying you access to public records. The City's response to your complaint is enclosed for your reference.

## BACKGROUND

In your complaint, you allege on April 8, 2010, you filed a request for access to records regarding a residence in Terre Haute. You claim you have received neither the records nor a response from the City.

My office forwarded a copy of your complaint to the City. City Attorney Chou-il Lee responded on its behalf. Mr. Lee states that the City has compiled all responsive records, which total 113 pages. The records are responsive not only to the instant request but also to previous requests to the City. He further states that on April 30, 2010, the City sent you a letter informing you that the packet was ready and that \$16.20 would be required for copying and postage. On June 4, 2010, the City received a letter from you in which you stated that you had already sent the payment but had not received the information yet. Mr. Lee maintains that his office has not received any monies from you in connection with your request.

## 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 City is a “public agency” under the APRA. I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the City’s public records during regular business hours unless the public records are excepted from disclosure as nondisclosable under the APRA. I.C. § 5-14-3-3(a).

Here, the City states that it has procured all records responsive to your request and is prepared to mail them to you once the City receives your payment of fees. The APRA provides that a public agency may require that payment for copying costs be made in advance. I.C. § 5-14-3-8(e). Moreover, a public agency is under no obligation to mail copies to a requester at the agency’s expense, so it was appropriate for the City to request that you reimburse its postage costs. Once you remit the appropriate payment for copy fees and postage, I trust the City will forward you the copies.

#### CONCLUSION

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

Best regards,



Andrew J. Kossack  
Public Access Counselor

Cc: Chou-il Lee