



# STATE OF INDIANA

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July 11, 2010

Mr. Stuart D. Summers  
P.O. Box 104  
4700 Lowenstines Lane  
Valparaiso, IN 46383

*Re: Formal Complaint 10-FC-158; Alleged Violation of the Access to Public Records Act by the Porter County Assessor*

Dear Mr. Summers:

This advisory opinion is in response to your formal complaint alleging the Porter County Assessor (the "Assessor") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.*

## BACKGROUND

In your complaint, you allege that you filed a written request to inspect records relating to the tax assessment of your homestead on May 27, 2010. You state that you have an upcoming hearing on your tax appeal before the Indiana Board of Tax Review. As of June 24th, you had not received a response from the Assessor. After you left a voicemail with the Assessor on June 24th, a staffer from the Assessor's office responded to your call on June 30th and informed you at that time that the Assessor did not have to respond until two weeks before your hearing.

In response to your complaint, Susie Villarruel of the Assessor's office states that she met with you on July 9th and provided you with access to the minutes from your appeal. She states that she also went through your file and gave you copies of everything you wanted.

## 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. The Assessor 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 Assessor's public records during regular business hours unless the records are excepted from disclosure as confidential or 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 or facsimile and the agency does not respond to the request within seven (7) days of receipt, the request is deemed denied. I.C. §5-14-3-9(b). If the request is delivered in person and the agency does not respond within 24 hours, the request is deemed denied. I.C. §5-14-3-9(a).<sup>1</sup> When the request is made in writing and the agency denies the request, the agency must deny the request in writing and must include a statement of the specific exemption or exemptions authorizing the withholding of all or part of the record and the name and title or position of the person responsible for the denial. I.C. § 5-14-3-9(c). Here, you allege the Assessor did not respond to your May 27th request until June 30th. If the Assessor failed to respond to your request within seven (7) days, the Assessor violated section 9 of the APRA.

The Assessor assures me that it has now provided you with all records responsive to your request. I trust this satisfies your complaint.

#### CONCLUSION

For the foregoing reasons, it is my opinion that if the Assessor failed to respond to your request within seven (7) days, the Assessor violated section 9 of the APRA. The Assessor has not otherwise violated the APRA if it has provided you with the records you requested.

Best regards,



Andrew J. Kossack  
Public Access Counselor

CC: Susie Villarruel

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<sup>1</sup> The APRA does not require public agencies to *produce* records within these timeframes; rather, it requires a *response*. A response from the public agency could be an acknowledgement that the request has been received and information regarding how or when the agency intends to comply.