



STATE OF INDIANA

MITCHELL E. DANIELS, JR., Governor

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January 4, 2010

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

Re: Formal Complaint 10-FC-2; Alleged Violation of the Access to Public Records Act by Gregg Township Board Member

Dear Ms. Graf:

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

BACKGROUND

In your complaint, you allege that you sent a public records request "to Mary Ann Banks, a member of the Gregg Township Board (the "Board"), for any and all public documents that supports [sic] the 2010 proposed budget." The address to which you sent your complaint is not the official address of the Board; rather, it appears to be Ms. Banks' home address. My office forwarded a copy of your complaint to that address, but we have not yet received a 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. The Board is clearly 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 Board'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).

The obligations of the Board under the APRA notwithstanding, each individual member of the Board does not constitute a public agency for the purposes of the APRA.

Opinion of the Public Access Counselor 00-FC-38. This office has long held that “the APRA applies to public agencies, not individuals.” *Id.* Here, it appears that you requested public records by mailing your request to Ms. Banks’ home rather than the Board’s official address, which previous public access counselors and I have opined is not a valid request. *See Opinion of the Public Access Counselor 08-FC-73.* Public employees and officials are not obligated to respond to APRA requests if those requests are delivered to their homes unless their home addresses are *also* a public agency’s official address. If Ms. Banks received your request at her home address, it is my opinion that she was not obligated to respond.

CONCLUSION

For the foregoing reasons, it is my opinion that neither the Member nor the Board violated the APRA.

Best regards,

A handwritten signature in black ink that reads "Andrew J. Kossack". The signature is written in a cursive, slightly slanted style.

Andrew J. Kossack
Public Access Counselor

cc: Mary Ann Banks, Gregg Township Board