



# STATE OF INDIANA

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December 12, 2011

James R. Tygrett  
6749 Romeo Drive  
Avon, Indiana 46123

*Re: Formal Complaint 11-FC-301; Alleged Violation of the Access to Public Records Act by the West Central Conservancy District*

Dear Mr. Tygrett:

This advisory opinion is in response to your formal complaint alleging the West Central Conservancy District ("District") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* Alan Hux, Attorney, responded on behalf of the District. His response is enclosed for your reference. I have granted your request priority status pursuant to 62 Indiana Administrative Code 1-1-3(3).

## BACKGROUND

In your formal complaint, you allege that on or about December 1, 2011, you submitted a written request to the District for any and all Conflict of Interest Disclosure Statements submitted by the District to the State Board of Accounts ("SBOA") for the years 2005-2011. On December 5, 2011, the District responded to your request in writing and advised that after discussing your request with the SBOA, it determined that you should make your request directly with the SBOA so that any notations made by the SBOA will be contained in the copies. You maintain that the District violated the APRA by failing to cite to an exemption under the law that would allow it to deny your records request made pursuant to the APRA.

In response to your formal complaint, Mr. Hux advised that in preparation for complying with your request, the District contacted the SBOA. The District was advised that you should make your request directly of the SBOA, since any response from the SBOA would contain the file marks and any other notations made by the SBOA and the copy maintained by the District would not. In addition, the District reasoned that given its current staffing levels, the time needed to maintain the normal operations of the office, and the volume of your other pending records requests, the information would be more readily accessible from the SBOA. In light of your formal complaint, the District commenced compiling the requested records and believes that it will be able to provide all records responsive to your request by December 21, 2011.

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

A request for records may be oral or written. *See* I.C. § 5-14-3-3(a); § 5-14-3-9(c). If the request is delivered in person and the agency does not respond within 24 hours, the request is deemed denied. *See* I.C. § 5-14-3-9(a). 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. *See* I.C. § 5-14-3-9(b). Under the APRA, when a request is made in writing and the agency denies the request, the agency must deny the request in writing and 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. *See* I.C. § 5-14-3-9(c). I would note that in denying your request and directing you to the SBOA, the District was attempting to ensure that the records you sought would be provided in the most efficient fashion and in their final form. Despite its noble intentions, the District acted contrary to the section 9(c) of the APRA by failing to cite to the specific exemption authorizing the withholding of the records that you had requested. As the District has now indicated that all records responsive to your request would be provided by December 21, 2011, I trust that this is in satisfaction of your complaint.

## CONCLUSION

For the foregoing reasons, it is my opinion that the District acted contrary to section 9(c) of the APRA in denying your request for records.

Best regards,



Joseph B. Hoage  
Public Access Counselor

cc: Alan Hux