



STATE OF INDIANA

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October 25, 2013

Mr. Joseph Shabazz
415 LaSalle
South Bend, IN 46601

Re: Formal Complaint 13-FC-288; Alleged Violation of the Access to Public Records Act by the St. Joseph County Board of Commissioners

Dear Mr. Shabazz,

This advisory opinion is in response to your formal complaint alleging that St. Joseph County Board of Commissioners ("Commissioners") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The Commissioners have responded to your complaint by way of Ms. Kathleen Cekanski-Farrand, Esq. Her response is enclosed for your review. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on September 30, 2013.

BACKGROUND

Your complaint dated September 30, 2013, alleges the St. Joseph County Board of Commissioners violated the Access to Public Records Act by denying your request in violation of Ind. Code § 5-14-3-3(b).

You allege that on September 24, 2013 you hand-delivered a request for public records to the Office of the St. Joseph County Board of Commissioners. You were seeking a list of all federal funding received by St. Joseph County (by amount, by public agency) received for the years 2011-2012.

The Commissioner's response contends you were greeted by staff at the time you delivered your request; your request was acknowledged, and you were updated that the records were being gathered. Furthermore, the response claims the records were given to you on September 30, 2013 the day you filed your complaint with this office.

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 Ind. Code § 5-14-3-1. The St. Joseph County Board of Commissioners is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Accordingly, any person has the right to inspect and copy the Commissioner’s public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14- 3-3(a).

A request for records may be oral or written. See Ind. Code § 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 Ind. Code § 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 Ind. Code § 5-14-3-9(b). A response from the public agency could be an acknowledgement the request has been received and information regarding how or when the agency intends to comply.

The APRA is clear that a public agency only must respond and acknowledge an in-person request for records within 24 hours. You were advised at the time of your arrival the records would need to be on the prescribed form. You completed the prescribed form during the same exchange. You were told a short time later the information was being processed. Because there was no denial and a staff member acknowledged your request indicting to you how they would proceed, the response deadline is deemed satisfied.

Within a reasonable time after the request is received by the agency, the public agency shall provide the requested copies to the person making the request. See Ind. Code § 5-14-3-3(b)(1). You filed your formal complaint within a week after your request. There is no obligation under the APRA for immediate production of records. A week is well within the reasonable timeline for production of a response. I trust your request is satisfied by the Commissioner’s release of the records to you on September 30, 2013.

CONCLUSION

For the foregoing reasons, it is the Opinion of the Office of the Public Access Counselor the St. Joseph County Board of Commissioners did not violate the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to be 'LH Britt', written in a cursive style.

Luke H. Britt
Public Access Counselor

cc: Ms. Kathleen Cekanski-Ferrand, Esq.