



# STATE OF INDIANA

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November 18, 2013

Ms. Zaida Maldonado-Prather  
8222 Browning Dr.  
Indianapolis, IN 46227

*Re: Formal Complaint 13-FC-303; Alleged Violation of the Access to Public Records Act by the City of Indianapolis*

Dear Ms. Maldonado-Prather,

This advisory opinion is in response to your formal complaint alleging that the City of Indianapolis ("City") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The City has responded to your complaint via Ms. Samantha DeWester, Esq. 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 October 18, 2013.

## BACKGROUND

Your complaint dated October 18, 2013 alleges the City of Indianapolis violated the Access to Public Records Act by denying your request for records in violation of Ind. Code § 5-14-3-3(b).

On October 8, 2013 you served upon the City of Indianapolis, Department of Metropolitan Development a request for the following public records:

Any document in an electronic format already created by DMD that contains the following data/information using the 2010 US census for Indianapolis:

- Population figures for the county, a township, or neighborhood
- Census tract and/or block group maps of income, poverty, race, employment, and educational attainment
- Demographic analysis of neighborhoods

The City acknowledged your request in a timely manner. On October 10, 2013, your request was denied because it did not meet the reasonable particularity standard in the APRA. Later on October 10, 2013, you submitted a similar request for the same data and cited a screenshot of the Department of Metropolitan Development's website

demonstrating the City regularly provides the kinds of records responsive to your request. On October 15, 2013, your request was again denied under the reasonable particularity standard.

## 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 City of Indianapolis 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 City’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.

Ind. Code § 5-14-3-3(1)(a) requires individuals seeking information request the records with reasonable particularity. That particular term is not defined in Indiana Code; therefore, it must be addressed on a case-by-case basis. In the present case, you requested certain information pursuant to the web site declaration the City would provide records responsive to your request. It is true the web site advertises the kinds of records the Department of Metropolitan Development maintains and produces.

The distinguishing factor here is the City concludes all of the records you seek are not reasonably particular. Ind. Code § 5-14-3-6(a) states if a public record contains disclosable and nondisclosable information, the public agency shall, upon receipt of a request under this chapter, separate the material that may be disclosed and make it available for inspection and copying. I believe this denotes if a portion of the request is nondisclosable as it does not meet the discretionary reasonable standard, the City would not be required to undertake a speculative investigation into all of those records. The portion of the request which does meet the reasonable particularity standard would have to be disclosed.

The portion of your request seeking demographic data for the *county* is reasonably particular. The City can identify with certainty Marion County information is part of the records you seek. Therefore, that particular information must be disclosed.

On the contrary, it is not unreasonable the City has determined your request for information regarding townships and neighborhoods be deemed not particular. If you

were to narrow the request to a singular (or limited number of) township or neighborhood, then it would be particular. A broad request for *everything* maintained by the DMD would presumably yield a significant number of results. The City has not erred in concluding as such.

#### CONCLUSION

For the foregoing reasons, the City has violated the APRA regarding the County information; however, they have not violated the Access to Public Records Act in determining the portion of your request seeking a universal search of township and neighborhood data is not reasonably particular.

Regards,

A handwritten signature in black ink, appearing to read 'L. H. Britt', with a long, sweeping underline.

Luke H. Britt  
Public Access Counselor

Cc: Samantha DeWester, Esq.