



# STATE OF INDIANA

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September 19, 2014

Mr. Robert Garcia  
3733 Parrish Ave.  
East Chicago, IN 46312

*Re: Formal Complaint 14-FC-185; Alleged Violation of the Access to Public Records Act by the City of East Chicago*

Dear Mr. Garcia,

This advisory opinion is in response to your formal complaint alleging the City of East Chicago ("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 General Counsel Joe Allegretti. His 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 August 20, 2014.

## **BACKGROUND**

Your complaint, dated August 19, 2014, alleges the City of East Chicago violated the Access to Public Records Act by delaying the production records responsive to your request.

On July 17, 2014, you hand-delivered four public records requests to the City. An acknowledgement letter was provided to you at the time of your request. On July 31, 2014, you received a letter from Corporation Counsel Joe Allegretti providing some material and asking you to clarify another portion of your request. You responded accordingly on the same day, however, you did not receive a response. You sent a follow-up email on August 4, 2014. You did not receive a response from this request either.

The City responded to your formal complaint by claiming you were not denied any record but some of your requests were not reasonably particular. It also alleges the entirety of your request was satisfied after the filing of your complaint on August 22, 2014.

## **ANALYSIS**

The public policy of the APRA states that “a (p) roviding person 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 East Chicago 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.

Initially, the City alleges your requests are not reasonably particular. The City initially made a good faith effort to ask you to clarify your request and not outright deny it. At least a portion of your request does indeed seek information and not an identifiable record. Therefore, it would seem appropriate for the City to ask for clarification.

As for the non-response to your correspondence after the initial request, an agency is not obligated to respond within seven days of each and every piece of communication from a requestor. The statute only obligates them to respond to the initial request within 24 hours or seven days, depending on the method of service. Best practice would dictate they respond within seven days – and much shorter in most cases – however, it is not a violation. They have a reasonable time to respond pursuant to Ind. Code § 5-14-3-3. It appears they have produced all the records and information requested within 30 business days. This is a reasonable time. It is my sincere hope your request has been satisfied in full. If not, please do not hesitate to contact this Office for further assistance.

## **CONCLUSION**

Based on the foregoing, it is the Opinion of the Public Access Counselor that the City of East Chicago did not violate the Access to Public Records Act.

Regards,

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

Luke H. Britt  
Public Access Counselor

Cc: Mr. Joe Allegetti, Esq.