



STATE OF INDIANA

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March 5, 2014

Mr. Charles J. Rocek
44 Mason St.
Hammond, IN 46320

Re: Formal Complaint 14-FC-21; Alleged Violation of the Access to Public Records Act ("APRA") by the City of Hammond

Dear Mr. Rocek,

This advisory opinion is in response to your formal complaint alleging the City of Hammond ("City") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The City has provided a response to your complaint via its Law Department. The 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 February 4, 2014.

BACKGROUND

Your complaint dated February 4, 2014 alleges the City of Hammond violated the Access to Public Records Act by not providing records responsive to your request in violation of Ind. Code § 5-14-3-3(b).

You allege on January 22, 2014, you requested "Gross contributions by city employees, and amounts given separately thru gaming funds by council members, and mayor to the Lake Area United Way for years 2005 thru 2013." As of the date of your complaint, you had not received any acknowledgement of your request or the production of any documents.

The City of Hammond, in its response, argues the City Controller sent an acknowledgement to you on January 24, 2014 stating the availability of the records and potential fees associated with copying them. To demonstrate, they have produced a fax verification report of your request from the Law Department to the City Controller's 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 City of Hammond 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.

From the information provided, I can conclusively state your request was received by the Law Department and forwarded to the City Controller on January 24, 2014. If the Controller’s response was, in fact sent to you, the City has not violated the Access to Public Records Act. I have no way of verifying if the Controller’s letter was sent or received by you. As such, I cannot state an affirmative determination the City denied any records responsive to your request. It is my sincere hope - based on the City’s assertion the records are available - you will now be able to retrieve these documents without delay.

CONCLUSION

For the foregoing reasons, it is the Opinion of the Indiana Public Access Counselor the City of Hammond has not violated the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to read 'LH Britt', with a long horizontal flourish extending to the left.

Luke H. Britt
Public Access Counselor