



STATE OF INDIANA

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December 12, 2014

Ms. Kim Ferraro
407 E. Lincolnway, St. A.
Valparaiso, IN 46383

Re: Formal Complaint 14-FC-273; Alleged Violation of the Access to Public Records Act by the City of Gary

Dear Ms. Ferraro,

This advisory opinion is in response to your formal complaint alleging the City of Gary ("City"), violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The City has responded via City Attorney Gregory L. Thomas, Esq. 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 November 12, 2014.

BACKGROUND

Your complaint, alleges the City of Gary violated the Access to Public Records Act (Ind. Code § 5-14-3) by failing to acknowledge your request in a timely manner.

Beginning April 16, 2014, you made a public records request and several follow up contacts to the City requesting information regarding a contract. The only response was on July 1, 2014; your assistant was able to reach the assistant corporation counsel who informed you the records were available but delayed due to the complexity of your request. At the time of your formal complaint, you had not received the documents or a status update.

The City responded to your complaint conceding the delay and cited various personnel issues leading to the lack of response. The information was allegedly delivered to you after the filing of your complaint.

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 Gary is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). 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.

The City acknowledges the violation and appears conciliatory. Indeed, a reasonable time had elapsed by the time you filed your complaint. It is my sincere hope the City has rectified its mistake and you are now in possession of the information you sought.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the City of Gary has violated the Access to Public Records Act; however, they have remedied the violation by providing you the records you seek.

Regards,

A handwritten signature in black ink, appearing to read 'L. H. Britt', with a stylized flourish at the end.

Luke H. Britt
Public Access Counselor

Cc: Gregory L. Thomas, Esq.