



STATE OF INDIANA

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March 14, 2016

Mr. Michael Christianson – DOC #135486
New Castle Correctional Facility
Post Office Box A
New Castle, Indiana 47362

*Re: Formal Complaint 16-FC-26; Alleged Violation of the Access to Public Records Act by
Center Township Trustee Office*

Dear Mr. Christianson:

This advisory opinion is in response to your formal complaint alleging Center Township Trustee Office; Ms. Lisa Pierzakowski, Township Trustee (“Office”) violated the Access to Public Records Act (“APRA”), Ind. Code § 5-14-3-1 et. seq. The Office responded via Ms. Pierzakowski. 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 February 9, 2016.

BACKGROUND

Your complaint dated February 1, 2016 alleges the Center Township Trustee Office violated the Access to Public Records Act by failing to acknowledge your request.

On January 14, 2016, you sent a letter to the Office seeking the most current revision of the Center Township Application Standards and Eligibility for Township Assistance. You also submitted several questions regarding potential legal and administrative rulings by the Trustee. However, because these questions are outside the scope of this office, only the failure to acknowledge your request for the Application Standards will be addressed.

On February 16, 2016 the Office responded. The Office states it received your request letter and contends it responded back to you in January 2016, stating you would be sent a copy of the updated guidelines in July 2016, once the Office received your letter stating you needed assistance.

The Office also contends your complaint is premature. The Office contends it should have 30 days to respond to your request.

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. Center Township Trustee Office 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 Office’s disclosable 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 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 Office has stated it acknowledged your request and it responded. However, the Office did not include a date as to when it responded to your request. Under the APRA, a public agency has seven (7) days from receipt to acknowledge a request. Once a request has been acknowledged, an agency has a reasonable amount of time to provide the records requested or to deny the request. There is not a statutory justification for the Office’s assertion of a 30-day timeframe.

Regardless, your request was still premature. You state that you sent a Public Access Request to the Office on January 14, 2016. Due to the delays inherent in prison mail, your request likely did not leave the facility for another five (5) days. Your request must then be sent to the Office, who then has seven (7) days to respond. The response must then be sent to your facility and be processed. It can therefore take between three (3) to four (4) weeks before the Office’s response reaches you. Because you have not allowed enough time to elapse, your complaint is premature. In spite of this, it is my sincere hope that you received your requested records in a timely fashion.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the Center Township Trustee Office did not violate the Access to Public Records Act.

Regards,



Luke H. Britt
Public Access Counselor

Cc: Ms. Lisa Pierzakowski

