



STATE OF INDIANA

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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 Indiana Code § 5-14-3-1*. The City of Evansville is a public agency for the purposes of the APRA. *See Indiana Code § 5-14-3-2(n)*. Accordingly, any person has the right to inspect and copy the City’s disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. *See Indiana Code § 5-14-3-3(a)*.

The burden is on a public agency to produce records within a reasonable time. What constitutes a reasonable time is not defined by the statute, but is considered on a case by case basis. Several factors are taken into consideration including the clarity of the request. The Complainant sought a current “balance sheet” from the City Controller’s office. This office does not actually maintain a balance sheet. Public accounting principles being slightly different than those of a private business. Documentation in other forms containing information relating to assets, liabilities and financial position is audited by the State Board of Accounts and uploaded to the State of Indiana Gateway. The City advised the Complainant accordingly.

Additionally, the Complainant submitted the public records request in question with other requests and has no fewer than three (3) complaints to this Office pending at the time of this writing. The complaint was filed approximately fifteen business (15) days after the request was received. Agencies have seven (7) of those days just to acknowledge the request, let alone scrutinize a request to figure out exactly what document a requester is referring to.

Given the size of the city and the fact the City has had a mere ten (10) complaints filed to this Office since 2015 (six of them being from the Complainant), the City of Evansville is not a known serial offender of the public records laws. I am not inclined to find them in violation for a three (3) week delay in production of documents¹.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the City of Evansville has not

¹ This Opinion also serves as a response to the Formal Complaint filed by the Complainant in 17-FC-35 which has a similar fact pattern against the City Controller’s Office. Both complaints do not merit a determination of non-compliance.



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violated the Access to Public Records Act.

Luke H. Britt

A handwritten signature in black ink, appearing to read "L. H. Britt".

Public Access Counselor

Cc: Mr. Dirck Stahl, Esq.