

July 22, 2002

Mr. Dean Steinhilber
202 East Indiana Avenue
Hamlet, IN 46532

Re: Advisory Opinion 02-FC-29; Alleged Denial of Access to Public Records by the Town of Hamlet.

Dear Mr. Steinhilber:

This is in response to your formal complaint, which was received on July 17, 2002. You have alleged that the Town of Hamlet (hereinafter, "Town,") violated the Indiana Access to Public Records Act, ("APRA,") Indiana Code chapter 5-14-3, with respect to your July 1, 2002 request for access to public records. Ms. Elaine McCarty, Town Clerk-Treasurer, responded in writing to your complaint and a copy of her response is enclosed for your reference. For the reasons set forth below, it is my opinion that the Town did not deny you access to public records in violation of the APRA with respect to your July 1st request.

BACKGROUND

In your complaint, you allege that on July 1, 2002 you hand-delivered a written request to the Town for copies of "sewer and water operators' annual contracts prior to the 2002 contracts." Clerk-Treasurer McCarty told you at that time that you could have access to the minute books and do the research yourself. You then filed your formal complaint with this Office.

In response to your complaint, Clerk-Treasurer McCarty stated that she would allow you access to the minute and ledger books so that you could determine what records you wanted, then she would make copies for you. She indicated that she did not deprive you of access to public records, only that she would not perform the research for you.

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." Ind. Code § 5-14-3-1. Furthermore, "[t]his chapter shall be liberally construed to implement this policy and place the burden of proof for the nondisclosure of a public record on the public agency that would deny access to the record and not on the person seeking to inspect and copy the record." Ind. Code § 5-14-3-1.

The Town is clearly a public agency for the purposes of the APRA. Ind. Code § 5-14-3-2. Accordingly, any person has the right to inspect and copy the public records of the Town during regular business

hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under Indiana Code section 5-14-3-4. Ind. Code § 5-14-3-3(a). A person who has been denied access to public records under the APRA may file an action in circuit or superior court to compel the public agency to allow inspection and copying of the public records. Ind. Code §5-14-3-9(d).

Under the APRA, a public agency is required to respond to requests for public records that are maintained or filed by or with those agencies. Public records requests are also supposed to be stated with "reasonable particularity" so that the public agency can locate the public records in question. Ind. Code §5-14-3-3(a)(1). If a request is not reasonably particular, the public agency may ask for clarification. If a request is particular, but the records are not kept in one central location, the public agency may provide the requestor an opportunity to perform his or her own research. Nothing in the APRA requires a public agency to perform this research for a requestor, but the agency may do so.

In your July 1st request, you asked for copies of all contracts the Town has with a particular vendor, other than the most recent contracts. While your request was certainly particular, this does not mean that the Town keeps this information in one file or that no further research would be required. In fact, Clerk-Treasurer McCarty's response to your request was that you could research the minute or ledger books and find the documents, then she would copy them for you. She did not deny you access to these public records, only informed you that due to the way that Town records are maintained, some research would have to be performed. For this reason, it is my opinion that the Town did not deny you access to public records under the APRA with respect to your July 1, 2002 request.

CONCLUSION

It is my opinion that the Town of Hamlet did not deny you access to public records in violation of the APRA with respect to your July 1, 2002 request.

Sincerely,

Anne Mullin O'Connor

Enclosure

cc: The Honorable Elaine McCarty, Hamlet Clerk-Treasurer