
OPINION OF THE PUBLIC ACCESS COUNSELOR

CHARITY WILDER,
Complainant,

v.

TOWN OF ST. PAUL,
Respondent.

Formal Complaint No.
23-FC-110

Luke H. Britt
Public Access Counselor

BRITT, opinion of the counselor:

This advisory opinion is in response to the formal complaint alleging the Town of St. Paul violated the Access to Public Records Act.¹ Board President Theo M. Clark filed an answer on behalf of the town. In accordance with Indiana Code § 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on November 1, 2023.

¹ Ind. Code § 5-14-3-1-10.

BACKGROUND

This case involves a dispute over the Town of St. Paul's (Town) fee schedule for public records.

On October 24, 2023, Charity Wilder (Complainant), submitted a public records request to the Town Clerk-Treasurer. She did not receive a response so she followed up with the Town Board members on October 31. She sought the following records:

2022 Annual Financial Report

Bank Statements from all of 2019, 2020, 2021, 2022, and 2023

She was advised of a "new town requirement" that records would cost \$1.00 per page. She also received a salty response to her request from the Town Board President:

I'm sorry, but I see NO reason for your request. There is NO indication of ANY misused funds and I am pretty sure you are just doing what you do best, stir up trouble. With your reputations and record, if I was you I would be ashamed to show my face in this town. We will give you what you asked for, but we will be prepared to squash any lies or accusations you may try to start.

As a result, Wilder filed her complaint on November 1, 2023.

In response, on November 20, the Board President submitted a response indicating the Clerk-Treasurer was on vaca-

tion which would explain the lack of an initial response. Furthermore, he stated the records would be provided to Wilder free of charge, however, that was walked back in a subsequent message later on the afternoon of November 20.

ANALYSIS

1. The Access to Public Records Act

The Access to Public Records Act (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. The Town of St. Paul is a public agency for purposes of APRA; and therefore, subject to its requirements. *See* Ind. Code § 5-14-3-2(q). As a result, unless an exception applies, any person has the right to inspect and copy the Town’s public records during regular business hours. Ind. Code § 5-14-3-3(a).

Indeed, APRA contains mandatory exemptions and discretionary exceptions to the general rule of disclosure. *See* Ind. Code § 5-14-3-4(a) to -(b). This case involves the applicability of APRA’s fee schedule compared to a local requirement.

2. Fees for copies of public records

This case addresses the cost of public records and the policies setting those costs. Based on the information provided, the Town of St. Paul is attempting to recoup \$1 per page for copies of financial reports and statements.

APRA sets a fee schedule for both routine public records as well as law enforcement recordings. Generally, the cost of black-and-white, standard-sized copies of records is capped at \$0.10 per page, so long as an ordinance is in place.

Local policy does not trump state statute and when there is a conflict, Indiana code preempts local rule. Municipalities can certainly be reimbursed for the cost of providing public records in physical form, however, those fees must be consistent with the Access to Public Records Act.

3. Initial denial of records

This office has not been made privy to the animosity between the parties in this case other than the current controversy. Given the innocuous and routine manner in which Wilder submitted her request, the Town's response shocks the conscience.

The records sought are disclosable public record and should be available for inspection upon request. There are no exemptions to disclosure which would cover the materials sought. This is true even if the Town considers Wilder to be a rabble-rouser.

Indeed, Wilder's request is broad when it comes to the bank statements, but there are built-in mechanisms in the APRA whereby an agency can seek more specificity. But an outright denial rife with contempt is not the preferred manner of doing so.

While a requester should be mindful of the requirement of specificity when seeking records, a clapback by the agency shaming the requester is not the appropriate riposte.

The Town of St. Paul can take its obvious hostility toward transparency and public access elsewhere. It is not a tune well received by the ears of this office.

CONCLUSION

Based on the foregoing, it is the opinion of this office the Town of St. Paul violated the Access to Public Records Act by charging costs in excess of the statutory fee schedule and for initially denying a request for financial transactional records.



Luke H. Britt
Public Access Counselor

Issued: January 18, 2023