
OPINION OF THE PUBLIC ACCESS COUNSELOR

RUSSEL “RUSTY” HOAKS,
Complainant,

v.

TOWN OF OXFORD, CLERK-TREASURER,
Respondent.

Formal Complaint No.
23-FC-58

Luke H. Britt
Public Access Counselor

BRITT, opinion of the counselor:

This advisory opinion is in response to two formal complaints alleging the Town of Oxford violated the Access to Public Records Act.¹ The Town did not respond despite invitations to do so. In accordance with Indiana Code § 5-14-5-10, I issue the following opinion to both formal complaints received by the Office of the Public Access Counselor on July 12, 2023.

¹ Ind. Code § 5-14-3-1-10.

BACKGROUND

This opinion addresses a public records request for meeting materials and the lack of production of documents.

On June 12, 2023, Complainant Rusty Hoaks served an in-person public records request upon the Town of Oxford Clerk-Treasurer. Despite multiple attempts for status update, he was unable to receive the records.

He filed his complaint on July 12, 2023.

This office advised the Town of the complaint on July 14 and attempted to resolve it informally. After failure to do so, we initiated the complaint process on July 24 and formalized a timeline. Despite several subsequent attempts to solicit a response, we were unsuccessful in obtaining an answer.

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 Oxford Clerk-Treasurer’s Office 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 Clerk-Treasurer 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).

1.1 Cooperation from public agencies

Indiana Code section 5-14-5-5 expressly states that a “public agency shall cooperate with the [Public Access] Counselor in any investigation or proceeding under this chapter.”

Indeed, the chapter referenced in that statute is the one that governs the formal complaint procedure administered by this Office. In other words, public agencies must work with this Office in any formal complaint investigation or proceeding.

Here, the Clerk-Treasurer did not file an answer to the formal complaint or resolve the dispute despite several invitations to do so.

The Clerk-Treasurer should be mindful going forward that cooperating with this Office necessarily requires—at minimum—a response to the allegations raised in a formal complaint.

Otherwise, this Office will presume that the agency does not dispute a complainant’s allegations. This Office will not form and present arguments on behalf of an agency that does not file an answer to a complaint.

CONCLUSION

Based on the foregoing, it is the opinion of this office The Town of Oxford Clerk-Treasurer violated the Access to Public Records Act.

A handwritten signature in black ink, appearing to read 'LH Britt', written in a cursive style.

Luke H. Britt
Public Access Counselor