
OPINION OF THE PUBLIC ACCESS COUNSELOR

RYAN N. AHLERSMEYER,
Complainant,

v.

PLEASANT TOWNSHIP TRUSTEE,
Respondent.

Formal Complaint No.
24-FC-28

Luke H. Britt
Public Access Counselor

BRITT, opinion of the counselor:

This advisory opinion is in response to a formal complaint alleging the Pleasant Township Trustee violated the Access to Public Records Act.¹ Attorney Kurt R. Bachman filed an answer on behalf of the Township. 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 March 21, 2024.

¹ Ind. Code § 5-14-3-1-10.

BACKGROUND

In this case we consider whether the redactions of provided documents were within the Pleasant Township Trustee's discretion and if Mr. Ahlersmeyer received his requested documents in a reasonable time.

On or about November 28, 2023, Ryan Ahlersmeyer (Complainant) submitted a request on the established agency form for documents regarding a property that the Township purchased. He had previously submitted a public records request, but the agency insisted he used the form, which he subsequently did.

Ahlersmeyer sought negotiation material, agreements, closing documents, and appraisals for a building located at 2510 N. 200 W. purchased by the Township in 2018.

After several status update requests, the Township notified him that the documentation was available on March 11, having been sent for attorney review ten days prior. Ahlersmeyer then sought clarification on a number of items on March 18. After receiving no response, he filed complaint to this office on March 21 alleging that the timeliness in which the agency responded was unreasonable and that the redactions were inappropriate.

For its part, the Township responded on April 11 arguing that the current Trustee was unfamiliar with the purchase, having taken office four years after the fact. This caused some delay, as did the sheer number of documents responsive to the request. The Township does not address any redaction issues relating to the request.

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. Pleasant Township is a public agency for purposes of APRA; and therefore, is subject to law’s 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 Township’s public records during regular business hours. Ind. Code § 5-14-3-3(a).

Here, we explore the issue of reasonable timeliness and an allegation of over-redaction.

2. Reasonable time

Ahlersmeyer alleges the Township took too much time to produce the records responsive to his request - approximately three months.

A requester should expect to receive documents (or a denial) within a reasonable time after an agency accepts a request. Ind. Code § 5-14-3-3(b). This could entail a partial or complete fulfillment of the request, depending on the circumstances.

Neither “reasonable time” nor “reasonable particularity” are defined by statute. But it stands to reason that if specificity has been established as a predicate, reasonable timeliness is

simply defined by this office as practical efficiency. In those cases where an agency accepts a cumbersome or voluminous request, a sensible approach to the search and production is to disseminate the materials in a piecemeal manner as they become available. This certainly alleviates anxiety on the part of the requester that they may have been ignored.

On the flip side, this office empathizes with public officials who may need to investigate historical records created by prior office-holders. This underscores the importance of good organizational practices and leaving an office in good clerical shape for a successor. It is unclear what the current Trustee's search entailed logically. Nonetheless, three months is a long time for a requester to wait. In this case, the wait time appears to be too long based on context and the information provided. This is taking into due consideration the Trustee's relative recency in the position.

2. Unresponsive redacted documents

Under APRA, the public agency has the discretion to redact parts of a document that are nondisclosable in an otherwise disclosable document (*see* Ind. Code § 5-14-3-6(a)). Items that are nondisclosable must be cited by the agency as such.

In this case, Mr. Ahlersmeyer alleges that the documents have been wrongfully redacted in the case of the Purchase Agreement with two amendments and two copies of the Purchase Agreement with the seller's signature where one copy includes dates that have been modified on the copy provided compared to the original.

Ahlersmeyer expressed those concerns to the Trustee on March 18 after he reviewed the package of materials. His

contention is that his questions went unanswered. While the Access to Public Records Act does not contemplate interrogatories based on documents provided, I would have liked to have seen his concerns be addressed in the Township's response as they are directly germane to the production of material.

CONCLUSION

Based on the foregoing, it is the opinion of this office that the Pleasant Township Trustee's office did indeed stretch the reasonable time standard when it took three months to provide any material. Moreover, the matter of the clarity of documents remains in question. As a factual matter, this office cannot directly make a conclusion, but does recommend the Trustee provide an explanation.

A handwritten signature in black ink, appearing to read 'LH Britt', with a stylized flourish at the end.

Luke H. Britt
Public Access Counselor

Issued: June 3, 2024