



STATE OF INDIANA

MIKE BRAUN, Governor

**PUBLIC ACCESS COUNSELOR
JENNIFER RUBY**

Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317) 234-0906
Toll Free: 1-800-228-6013
Email: pac@opac.in.gov
Website: www.IN.gov/pac

October 31, 2025

Carla R. Tribble
*Address
Redacted*

Via email: *Address Redacted*

Re: Complaint 25-FC-009
Tribble, Blackford County BZA

Dear Ms. Tribble:

This Advisory Opinion is in response to your complaint regarding the Blackford County Board of Zoning Appeals (Respondent).

A Notice of Complaint was sent to Respondent with a copy of your complaint attached on February 14, 2025. Your complaint alleges that Respondent failed to provide you with the documents you requested under the Access to Public Records Act (APRA). You had requested copies of the applications submitted by private companies for consideration of special exceptions by Respondent.

The Notice requested a formal response to the complaint from the Respondent. This office received a response from Attorney Aubrey Crist on March 7, 2025.

Background

You requested the above-referenced documents on January 21, 2025 from the Respondent. Anne Owen responded the same day that the documents would be supplied and a pickup date would be given to you by the end of that day. Two of the four project applications were supplied to you on January 27, 2025. It appears that the Lake Trout and RWE Prairie Creek were misplaced at that time, and Anne Owen was unable to locate them.

Subsequently, Respondent has taken the position that the "application" is a personal notes document that was created by Anne Owen for personal use and is considered a discretionary disclosure under Indiana Code (IC) 5-14-3-4(b)(7).

You were denied a copy of the applications for Lake Trout and RWE. However, Respondent supplied you “packets” for all four projects in lieu of the “application”.

Access to Public Records Act (APRA)

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.” IC 5-14-3-1.

Respondent is a public agency for purposes of APRA, and therefore, subject to its requirements. IC 5-14-3-2(q). As a result, unless an exception applies, any person has the right to inspect and copy Respondent’s public records during regular business hours.

APRA contains exceptions, both mandatory and discretionary, to the general rule of disclosure. In particular, APRA prohibits a public agency from disclosing certain records unless access is specifically required by state or federal statute or is ordered by the court under rules of discovery. IC 5-14-3-4(a). In addition, APRA lists other types of public records that may be excepted from disclosure at the discretion of the public agency. IC 5-14-3-4(b).

Personal Notes Exception

One of the discretionary exceptions to disclosure is the concept of “personal note materials”. Personal note materials are excepted by statute as:

Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal. These records may be excepted from disclosure at the discretion of the public agency. IC 5-14-3-4(b)(7).

Analysis

This case is first plagued by issues of terminology and what documents are being requested or denied. Respondent has a document prepared by staff that has been devised by staff to be a summary of the submissions by the companies seeking a ruling from Respondent. Internally, this document has been given the name of “application” and is considered a document only for the personal use of Anne Owen.

The materials supplied by the private parties for consideration by Respondent have been labeled application “packets”. Respondent has released the packets, as public records, to you as the requestor, but you do not deem these “packets” to be the “application” document that you were seeking copies of, per your request.

The application packets are indeed public records. The company has submitted these documents as required by Respondent to begin the special exception process, and thus, becomes the information from which the underlying recommendations are made. Respondent has complied with the records request regarding the initial “application” documents of the private companies as submitted to Respondent.

Respondent has also taken the position, in accordance with IC 5-14-3-4(b)(7), that the document termed “application” is a personal notes document prepared by Anne Owen exclusively for her use in tracking the information contained in the packets. This personal notebook is subject to the discretion of Respondent as to whether or not it should be released. Respondent has chosen not to release this “application”.

The personal notes material exception has been the subject of several Advisory Opinions, mostly relating to the public access to personal calendars. In those opinions the Public Access Counselor cites the case of *Journal Gazette v. The Board of Trustees of Purdue University*, 698 N.E. 2d 826 (Ind. Ct. App. 1998).

In the *Journal Gazette* case, the newspaper made repeated requests for access to various public records from Purdue University, including a certain compliance log. Purdue University denied the requests as subject to the discretionary exception to disclosure afforded by IC 5-14-3-4(b)(7). The Indiana Court of Appeals held that Purdue University met its burden of proof under APRA that the compliance log in question was exempt as a whole from disclosure under IC 5-14-3-4(b)(7). In that case, the employee testified that he created the compliance log, he shared the information with very few people and that he referred to it as a notebook or diary log. Here the compliance log and the application log are very similar in nature and both used for keeping personal track of information. In this case, Respondent states that the “application” is a document prepared by Anne Owen for her own personal use to keep track of the process and information surrounding, and provided in, the application packets.

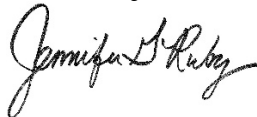
What complicates the issue here is that you reportedly received two of the four “applications” that you requested and then Respondent stated that the “applications” would not be released as discretionary for personal use under IC 5-14-3-4(b)(7). It is certainly unclear to this office whether the release of the two applications was in error, prior to a review by counsel for Respondent as to the required responsive records, or was it a waiver of the personal notes exception? It also could have been the release of two projects under Respondent’s discretionary authority, which might still invoke its right to not release the records for the other two projects.

This office does not express an opinion regarding the release of two of the four applications or a waiver of the personal notes exception more broadly. The personal notes document labeled “application” qualifies for exception to disclosure under APRA.

Conclusion

This office finds that Respondent did not violate APRA by denying disclosure of the “application” that Respondent had determined were subject to the personal notes exception.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer G. Ruby". The signature is fluid and cursive, with the first name being the most prominent.

Jennifer G. Ruby
Public Access Counselor

cc: Anne Owen, Blackford County Board of Zoning Appeals
via email: *Address Redacted*