



STATE OF INDIANA

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November 20, 2008

Larry Jones
5407 North Deerwood Lake Road
Jasper, Indiana 47546

Re: Formal Complaint 08-FC-227; Alleged Violation of the Access to Public Records Act by the Knox County Treasurer

Dear Mr. Jones:

This advisory opinion is in response to your formal complaint alleging the Knox County Treasurer ("Treasurer") violated the Access to Public Records Act ("APRA") (Ind. Code 5-14-3) by denying you access to records. I have enclosed a copy of the Treasurer's response to the complaint for your reference. In my opinion the Treasurer has not violated the APRA.

BACKGROUND

You filed the present complaint on October 27, 2008. You allege that on October 20 you appeared at the Treasurer's office and asked for access to a list of delinquent tax sale properties. You allege the Treasurer's office first denied you access and then provided you with a list. You allege the list was current through September 12 and when you inquired whether the list had been updated, the Treasurer's office indicated the list had not been updated.

The Treasurer responded to the complaint by electronic mail message dated November 19 from Treasurer Cendy Joslin. The Treasurer indicated the office was busy at the time of your request. The Treasurer contends she told you the list was available via the internet and in the local newspaper. When you indicated you did not have access to those, she provided you a copy of the list from the newspaper. The Treasurer contends the appropriate place for you to obtain the list is from the County Auditor.

ANALYSIS

The public policy of the APRA states, "(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." I.C. § 5-14-3-1. The Treasurer is clearly a public agency for the purposes of the APRA. I.C. § 5-

14-3-2(m). Accordingly, any person has the right to inspect and copy the public records of the Treasurer during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. I.C. § 5-14-3-3(a).

Indiana law is instructive as to what information the County Auditor must maintain related to tax sales:

Tax sale record

Sec. 8. Each county Auditor shall maintain a tax sale record on the form prescribed by the state board of accounts. The record shall contain:

- (1) a description of each parcel of real property:
 - (A) that is sold under IC 6-1.1-24;
 - (B) on which a county acquires a lien under IC 6-1.1-24-6; or
 - (C) for which a certificate of sale is purchased under IC 6-1.1-24;
- (2) the name of the owner of the real property at the time of the:
 - (A) sale;
 - (B) lien acquisition; or
 - (C) certificate of sale purchase;
- (3) the date of the:
 - (A) sale;
 - (B) lien acquisition; or
 - (C) certificate of sale purchase;
- (4) the name and mailing address of the:
 - (A) purchaser of the property and the purchaser's assignee; or
 - (B) purchaser of the certificate of sale;
- (5) the amount of the minimum bid;
- (6) the amount for which the:
 - (A) real property; or
 - (B) certificate of sale;is sold;
- (7) the amount of any taxes paid by the:
 - (A) purchaser of the real property or the purchaser's assignee; or
 - (B) purchaser of the certificate of sale;and the date of the payment;
- (8) the amount of any costs certified to the county Auditor under section 2(e) of this chapter and the date of the certification;
- (9) the name of the person, if any, who redeems the property;
- (10) the date of redemption;
- (11) the amount for which the property is redeemed;
- (12) the date a deed, if any, to the real property is executed; and
- (13) the name of the grantee in the deed.

I.C. § 6-1.1-25-8.

The Auditor is required to maintain a record containing the information you have requested. No provision of I.C. 6-1.1-25, nor any other provision of Indiana law I find,

declares this information confidential or otherwise nondisclosable. As such, the Auditor is required to make the record containing this information available for inspection and copying. See I.C. § 5-14-3-3.

Here, the information you have requested must be disclosed pursuant to the APRA, but you have requested the records from the incorrect agency. The Treasurer is not responsible under Indiana law for maintaining the information you seek. You should make your request to the County Auditor.

CONCLUSION

For the foregoing reasons, it is my opinion the Treasurer has not violated the APRA.

Best regards,



Heather Willis Neal
Public Access Counselor

Cc: Cendy Joslin, Knox County Treasurer