



# STATE OF INDIANA

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Dennis Dunn

VIA EMAIL: [ladd1122@gmail.com](mailto:ladd1122@gmail.com)

**RE: 23-INF-6; Tax Sale Surplus Reports**

Dear Mr. Dunn,

This informal opinion considers the release of Tax Sale Surplus Reports. Your inquiry involves the disclosure of such reports to the public upon request.

## BACKGROUND

You have been seeking the Tax Sale Surplus Reports from two vendors who have amalgamated these reports from the 92 Indiana counties. While you have received the reports from one vendor, the other is telling you that you need to request "permission" from each individual counties before they could provide you with these reports. Your inquiry concerns whether that is accurate, or if those reports are unequivocally disclosable.

## 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. Indiana Counties are public agencies for purposes of APRA; and therefore, subject to the 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 a county's public records during regular business hours. Ind. Code § 5-14-3-3(a).

Notably, APRA contains 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 any exception for tax sale information.

The office of the public access counselor has jurisdiction to address any access provision found in Indiana code.<sup>1</sup> Public access laws are defined as any state statute or rule governing access to public meetings or public records<sup>2</sup>.

Here, your request is for Tax Sale Surplus Reports, which indicate the initial price of a real estate parcel at tax and the amount of overage from competitive bidders. Each county auditor is required by statute to maintain a tax sale record that contains, among other information, the amount of the minimum bid and the amount of the sale.<sup>3</sup>

Notably, you did not request the reports from a county directly, but you are seeking them through a vendor which compiles these reports. You sought to purchase these records, however, you were told you needed “permission” from the counties before the vendor would release them.

In terms of statutory construction of the access laws, disclosure is always the initial presumption unless an exception exists<sup>4</sup>. This simply means that if there is no exception to disclosure, it cannot be withheld upon request. In this case, the chapter of Indiana code addressing tax sale reports is silent as to any exception. Therefore, it follows that the reports are intended to be open for public inspection. It also follows that “permission” in obtaining this information is an unnecessary step as the reports are unequivocally disclosable.

Anecdotally, the two largest counties in Indiana both proactively publish the reports on their web pages<sup>5</sup>. Additionally, pursuant to an inquiry to the Department of Local Government Finance, that agency also does not consider them confidential.

## CONCLUSION

Based on the foregoing, it is the opinion of this office that county auditor tax sale reports should be provided upon request without any additional qualification.



Luke H. Britt  
Public Access Counselor

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<sup>1</sup> Ind. Code § 5-14-4-10(5)

<sup>2</sup> Ind. Code § 5-14-4-3(3)

<sup>3</sup> See generally Ind. Code § 6-1.1-25-8

<sup>4</sup> *Tax Analysts v. Indiana Economic Development Corporation*, 162 N.E.3d 1111 (Ind. App. 2020)

<sup>5</sup> <https://www.indy.gov/activity/tax-sale-reports>; <https://www.allencounty.us/property-tax-surplus>