



STATE OF INDIANA

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May 10, 2011

Ms. April Stuttle
905 S. Main St.
Jonesboro, IN 46938

Re: Formal Complaint 11-FC-99; Alleged Violation of the Access to Public Records Act by the City of Jonesboro

Dear Ms. Stuttle:

This advisory opinion is in response to your formal complaint alleging the City of Jonesboro ("City") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* My office forwarded a copy of your complaint to the City on April 11th. The City's response from Clerk-Treasurer Karen Owen is enclosed for your review.

BACKGROUND

In your complaint, you allege that you made several records requests to the City, apparently on March 21, 2011. You sought audit reports for 2007-2010 from the State Board of Accounts for the City, scrap metal receipts for 2007-2009, meeting minutes for February and March 2011 for the City Council and the City Board of Works, fund reports for February and March 2011, and ordinances for 2009. You claim that you were initially denied copies by the City's Clerk-Treasurer, Karen Owen, because she instructed you to retrieve the documents from the City's website. You concede in your complaint that some of the records were later provided to you by the Clerk-Treasurer on April 4, 2011 via hand-delivery by local law enforcement.

It appears from your complaint that Ms. Owen did initially respond to your requests. In those responses, Ms. Owen advised that your requested records were either non-existent or currently being placed on the City's website. Some records were later produced to you at your residence, via hand-delivery by a local law enforcement officer. Further, in her April 22nd response to your complaint, Ms. Owen assured our office that the City would provide all responsive records to you by April 26th.

ANALYSIS

The public policy of 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.” I.C. § 5-14-3-1. The City is a public agency for the purposes of the APRA. I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the City’s public records during regular business hours unless the records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. I.C. § 5-14-3-3(a).

A request for records may be oral or written. I.C. § 5-14-3-3(a); § 5-14-3-9(c). If the request is delivered by mail or facsimile and the agency does not respond to the request within seven (7) days of receipt, the request is deemed denied. I.C. § 5-14-3-9(b). If the request is delivered in person and the agency does not respond within 24 hours, the request is deemed denied. I.C. § 5-14-3-9(a). A response from the public agency could be an acknowledgement that the request has been received and information regarding how or when the agency intends to comply.

Generally, public agencies do not violate the APRA if they respond to a request and state that records are available on the agency’s website. In such cases, the agency has not “denied” access to the records because such a response, if anything, facilitates the requester’s access to the records rather than depriving the requester of the ability to inspect and copy the records. Moreover, referring requesters to documents posted online often results in records being obtained faster and less expensively than when requesters seek hard copies of the records. However, if a requester is unable or unwilling to access the agency’s website and insists on receiving hard copies of records from the agency, the agency should provide copies (or permit a requester to make his or her own copies) in accordance with sections 3 and 8 of the APRA.

Here, it is unclear when you communicated your desire to have the records in hard copy form rather than accessing them online. In her April 22nd response to your complaint, Ms. Owen states that the City had either complied with your records requests or would comply by April 26, 2011. I trust that the City responded by April 26th in satisfaction of your complaint.

CONCLUSION

For the foregoing reasons, it is my opinion that the City did not violate the APRA if it initially responded to your request for records in a timely fashion by referring you to its website and ultimately produced hard copies of the records in response to your need for paper copies.

Best regards,

A handwritten signature in black ink that reads "Andrew J. Kossack". The signature is written in a cursive style with a large, sweeping initial 'A'.

Andrew J. Kossack
Public Access Counselor

cc: Karen Owen