



STATE OF INDIANA

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February 27, 2014

Mr. Muata Rameses
2024 N. Alton Ave.
Indianapolis, IN 46222

Re: Formal Complaint 14-FC-16; Alleged Violation of the Access to Public Records Act by the Indiana Housing and Community Development Authority

Dear Mr. Rameses,

This advisory opinion is in response to your formal complaint alleging the Indiana Housing and Community Development Authority ("Authority") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The Commission has provided a response to your complaint via Ms. Sondra Craig. Her response is attached for your review. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on January 23, 2014.

BACKGROUND

Your complaint dated January 23, 2014 alleges the Indiana Housing and Community Development Authority violated the Access to Public Records Act by not providing records responsive to your request in violation of Ind. Code § 5-14-3-3(b).

On January 9, 2014, you served upon the Authority a public records request for the exact amount of resources or monetary funds awarded to a named individual from 1997 to present. You specified the name and address of the individual; however, it has been omitted from this Opinion for privacy purposes. The same day, the Authority responded acknowledging your request and indicated they would begin the process of determining if they maintained any responsive records.

On January 22, 2013, the Authority responded with a letter stating they had no records responsive to your request and redirected you to the City of Indianapolis' Department of Metropolitan Development.

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.” See Ind. Code § 5-14-3-1. The Indiana Housing and Community Development Authority is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Accordingly, any person has the right to inspect and copy the Authority’s public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14- 3-3(a).

A request for records may be oral or written. See Ind. Code § 5-14-3-3(a); § 5-14-3-9(c). If the request is delivered in person and the agency does not respond within 24 hours, the request is deemed denied. See Ind. Code § 5-14-3-9(a). 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. See Ind. Code § 5-14-3-9(b). A response from the public agency could be an acknowledgement the request has been received and information regarding how or when the agency intends to comply.

After conducting a search, the Authority contends it does not have records responsive to your request. This may be due to the Federal Code of Regulations retention schedule for Community Development Block Grant fund records which is the funding stream for any money delivered to the recipient. I have reviewed 24 CFR 570.490(d) and concur with the Authority’s determination of their responsibility. If these records were destroyed or disposed of, it appears as if it was done legally. Nevertheless, the Authority conducted a search and did not have those records.

Instead of denying your request outright, the Authority extended an invitation to contact the City of Indianapolis’ Department of Metropolitan Development. I commend the authority for taking an extra step to try to assist you. Based on past conversations, I know you have been diligently searching for these records and it is my sincere hope that contacting the City of Indianapolis will be a fruitful endeavor. I wish you the best of luck in your continued search.

CONCLUSION

For the foregoing reasons, it is the Opinion of the Indiana Public Access Counselor the Indiana Housing and Community Development Authority has not violated the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to be 'LHB', written in a cursive style.

Luke H. Britt
Public Access Counselor

Cc: Ms. Sondra Craig