



STATE OF INDIANA

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January 10, 2014

Ms. Kathy J. Lowe
8855 Rabbit Hash Rd. SE
Elizabeth, IN 47117

Re: Formal Complaint 13-FC-348; Alleged Violation of the Access to Public Records Act by the Floyd County Auditor

Dear Ms. Lowe,

This advisory opinion is in response to your formal complaint alleging the Floyd County Auditor (“Auditor”) violated the Access to Public Records Act (“APRA”), Ind. Code § 5-14-3-1 *et. seq.* The Auditor has not responded despite an invitation to do so on December 18, 2013. 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 December 17, 2013

BACKGROUND

Your complaint dated December 17, 2013, alleges the Floyd County Auditor violated the Access to Public Records Act by denying your request for records in violation of Ind. Code § 5-14-3-3(b).

You allege that on or about October 25, 2013, you submitted a public records request to the Auditor requesting documentation showing the costs to Floyd County of prosecuting David Ray Camm. You also sought information for the purchase and renovation of the Pineview Government Center. You claim that you received a portion of the information but not the entirety of the records sought. As of the date of your formal complaint, you have not received any additional information.

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 Floyd County Auditor 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 Auditor'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.

You are certainly entitled to the records you seek unless the Auditor can demonstrate that the information falls into one of the enumerated exceptions under the APRA. Without the benefit of the Auditor's response, it appears that the agency has violated the APRA in not responding to your request.

CONCLUSION

For the foregoing reasons, it is the Opinion of the Public Access Counselor the Floyd County Auditor violated the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to read 'LH Britt', with a long horizontal flourish extending to the left.

Luke H. Britt
Public Access Counselor