



STATE OF INDIANA

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August 8, 2008

Karen Barnard
305 East Jody Lane
Oxford, Indiana 47971

Re: Formal Complaint 08-FC-188; Alleged Violation of the Access to Public Records Act by the Town of Boswell

Dear Ms. Barnard:

This advisory opinion is in response to your formal complaint alleging the Town of Boswell ("Town") violated the Access to Public Records Act ("APRA") (Ind. Code 5-14-3) by denying you access to records. The Town's response to the complaint is enclosed for your reference. It is my opinion the Town's response was untimely but the Town did not otherwise violate the APRA.

BACKGROUND

You allege that on July 29, 2008 you sent to the Town a request for access to records. You allege that the Town failed to respond to the request, and you filed this complaint on August 6.

The Town responded to the complaint by letter dated August 7 from attorney Jud Barce. Mr. Barce indicates that the Town sent the request to him because of concerns about the lack of clarity in the request and the volume of records which might be responsive to the request. Mr. Barce contends he spoke with you on August 7 and the two of you established a date and time for you to review the requested records and select which records you wish to have copied. Mr. Barce indicates that once you review the records, any requested copies will be provided upon payment of copy fees.

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 Town 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 Town 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).

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 days of receipt, the request is deemed denied. I.C. § 5-14-3-9(b).

Here the Town received the request on July 29. The Town had a duty under the APRA to respond to the request within seven days of receipt. I.C. § 5-14-3-9(b). If the first response from the Town was Mr. Barce's telephone call of August 7, the Town's response was untimely under the APRA. It is my opinion that so long as the Town allows you to inspect the records and select which records you wish to have copied (for which the Town may charge you, pursuant to I.C. § 5-14-3-8), the Town has not otherwise violated the APRA.

CONCLUSION

For the foregoing reasons, it is my opinion the Town's response was untimely but the Town did not otherwise violate the APRA.

Best regards,



Heather Willis Neal
Public Access Counselor

Cc: Jennifer Crisp, Boswell Clerk-Treasurer
Jud Barce, Barce & Barce, P.C.