



STATE OF INDIANA

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May 8, 2015

Ms. Deborah Bell
Black Knight Real Estate Data Solutions, LCC
600 N Brand Blvd., #500
Glendale, CA 92103

Re: Formal Complaint 15-FC-111; Alleged Violation of the Access to Public Records Act by the Clark County Recorder

Dear Ms. Bell,

This advisory opinion is in response to your formal complaint alleging the Clark County Recorder ("Recorder") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* As of the writing of this opinion, the Recorder has not responded to your complaint, despite being invited to do so on March 26, 2015. 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 March 26, 2015.

BACKGROUND

Your complaint dated March 25, 2015 alleges the Clark County Recorder violated the Access to Public Records Act by failing to provide the requested documentation within a reasonable amount of time.

On February 23, 2015, you made an APRA request to the Recorder, seeking an electronic copy of the Official Recorded Property for Clark County, including all deeds recorded from July 2008 to the December 1, 2012. You previously made four (4) other requests for the same information beginning on May 16, 2014.

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 Clark County Recorder's Office 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 Recorder'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.

A public agency must produce documents responsive to a request within a reasonable time. Although reasonable time is not defined in the APRA or by the Courts, it is a common sense standard which differs on a case-by-case basis. You requested the records in May 2014 and you have not received any records since that time. The reasonable time for production of records has clearly elapsed.

Therefore because your request was considered to be "denied" in 2014, this Office cannot opine on any of Black Knight's complaints because they fall outside the thirty (30) day statute of limitations. "A person or public agency that chooses to file a formal complaint with the counselor must file the complaint not later than thirty days after the denial." See Ind. Code § 5-14-5-7(a)(1). Because you failed to file a complaint for your previous denials within the thirty (30) day time period of your original request (May, 2014), this Office cannot issue a conclusion as to a violation. This includes renewed requests for identical information.

Provided you or your organization does not intend to resell the bulk form records for commercial purposes, you would be entitled to the records in the manner the recorder maintains them – including electronically. See generally, Ind. Code § 36-2-7-10.1.

Regards,

A handwritten signature in black ink, appearing to read 'LH Britt', with a long, sweeping underline.

Luke H. Britt
Public Access Counselor