



STATE OF INDIANA

MICHAEL R. PENCE, Governor

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May 20, 2015

Mr. David D. Johnson
7980 Royal Avenue
Zionsville, IN 46077

Re: Formal Complaint 15-FC-135; Alleged Violation of the Access to Public Records Act by the Town of Whitestown

Dear Mr. Johnson,

This advisory opinion is in response to your formal complaint alleging the town of Whitestown ("Town") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The Town has responded to your complaint via counsel, Mr. Stephen Unger, Esq. His response is enclosed 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 April 15, 2015.

BACKGROUND

Your complaint dated April 7, 2015 alleges the Town of Whitestown violated the Access to Public Records Act by failing to provide the records you requested. You claim you were told the records would be available on April 1, 2015. They were not available until April 2, 2015 -one day later.

On April 28, 2015, counsel responded to your complaint. Counsel notes the records you requested - construction plans - were oversized and a copy would need to be printed for you. Counsel notes the records were available on April 1, 2015; however, you did not come back to the office until April 2, 2015.

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 Town of Whitestown 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



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and copy the Town's disclosable 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).

Your complaint fails to specifically state how the Town has violated the APRA. You admit the records were provided to you, and have not alleged they were incomplete. Instead, you appear to be alleging the extra day you had to wait prior to receiving your records was impermissible.

The Town is correct the APRA only requires a reasonable amount of time to provide the records requested. See Ind. Code § 5-14-3-3. Indiana law does not contemplate immediate, on-the-spot access. If the records you requested were oversized and therefore would need to be prepared, a delay to specially prepare records for a request is not a violation of the APRA. Furthermore, the records were made available to you for inspection the very next day.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the Town of Whitestown has not violated the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to read "L. H. Britt", written in a cursive style.

Luke H. Britt
Public Access Counselor

Cc: Mr. Stephen Unger, Esq.