



STATE OF INDIANA

MICHAEL R. PENCE, Governor

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May 18, 2015

Mr. Larry C. Popoff
6711 Hunterdon Cove
Fort Wayne, IN 46835

Re: Formal Complaint 15-FC-140; Alleged Violation of the Access to Public Records Act by the City of Fort Wayne Parks and Recreation

Dear Mr. Popoff,

This advisory opinion is in response to your formal complaint alleging the City of Fort Wayne Parks and Recreation ("City") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The City has responded to your complaint via Ms. Carol Helton, Esq., City Attorney. 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 22, 2015.

BACKGROUND

Your complaint dated April 22, 2015 alleges the City of Fort Wayne Parks and Recreation violated the Access to Public Records Act by failing to provide the records you requested.

You sent a request for documents on April 10, 2015 seeking emails between a named individual and a named construction company. You were informed your request was received and forwarded to the legal department.

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 City of Fort Wayne Parks and Recreation 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 City's disclosable public records during regular business



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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 sent an APRA request on April 1, 2015 and received a response three (3) days later. This response was an acknowledgement and informed you the request had been forwarded to the legal department. From there, the City had a reasonable time to actually produce the documents you seek. It appears they have done so by May 4, 2015, within 30 days of your initial request. This is an appropriate timeframe based on the nature of your request.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the Fort Wayne Parks and Recreation has not violated the Access to Public Records Act.

Regards,

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

Luke H. Britt
Public Access Counselor

Cc: Ms. Carol Helton, Esq.