



STATE OF INDIANA

ERIC J. HOLCOMB, Governor

**PUBLIC ACCESS COUNSELOR
LUKE H. BRITT**

Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317)234-0906
Fax: (317)233-3091
Toll Free: 1-800-228-6013
Email: pac@in.gov/opac
Website: www.IN.gov/pac

OPINION OF THE PUBLIC ACCESS COUNSELOR

REBECCA S. KNIGHT

Complainant

v.

TOWN OF ALBION

Respondent

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16-FC-312

ADVISORY OPINION

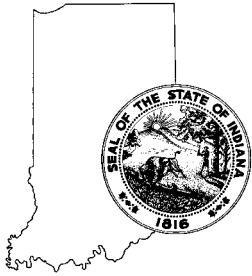
January 30, 2017

This advisory opinion is in response to the formal complaint alleging the Town of Albion (“Town”) violated the Access to Public Records Act (“APRA”), Indiana Code § 5-14-1.5-1 et. seq. The Town responded on January 11, 2017, via Mr. Stefan Wynn, Town Manager and Mr. Bill D. Eberhard, Jr., Esq. Town Attorney. Pursuant to Indiana Code § 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on December 12, 2016.

BACKGROUND

The formal complaint dated December 12, 2016, alleges the Town of Albion failed to provide email correspondence upon request. The Complainant submitted a public records request to the Town on December 1, 2016 seeking the following:

Information about emails sent and received from the address of albionmanager@frontier.com and any other email address in use by the Town Manager to discuss the business of the town from Sunday, Nov. 27 at 8 a.m. until Friday, Dec. 2 at 8 a.m. This information is to include content, sender information,



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date and time of sending, responses, response times and date of sending, emails deleted during this time frame, content contained in those emails and other information sent and received on this account.

On December 3, 2016, the Complainant received email correspondence from the town attorney stating the request would not be honored as it fails to state with reasonable particularity the specific emails desired. The same day the Complainant narrowed the search to any mention of the Albion Fire Department. The Town continues to state the request lacks specificity.

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 Indiana Code § 5-14-3-1*. The Town of Albion is a public agency for the purposes of the APRA. *See Indiana Code § 5-14-3-2(n)*. Accordingly, any person has the right to inspect 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 Indiana Code § 5-14-3-3(a)*.

Under the APRA, all requests must be reasonably particular in order for the public agency to locate, retrieve and produce records responsive to the request. *See Indiana Code § 5-14-3-3(a)*. Although not defined in the APRA, the Indiana Court of Appeals addressed the issue of reasonable particularity in the APRA in *Jent v. Fort Wayne Police Dept.*, 973 N.E.2d 30 (Ind. Ct. App. 2012), and again in *Anderson v. Huntington County Bd. of Com’rs.*, 983 N.E.2d 613 (Ind. Ct. App. 2013). The Court in *Jent* held that:

Whether a request identifies with reasonable particularity the record being requested turns, in part, on whether the person making the request provides the agency with information that enables the agency to search for, locate, and retrieve the records.

When it comes to email, I generally rely on the specific guidance provided by the Court in *Anderson*. The Court agreed with former Public Access Counselor Joseph B. Hoage, that a reasonably particular request names a specific sender, recipient, and date frame. I would also contend a specific request would include one or more key words for a search parameter. This applies to each email chain sought. The request in this case does not narrow down the search to a



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named sender and a named recipient. Instead, an account (or potential accounts) are identified as both the sender and the recipient, thereby capturing all emails in the account during that time frame. The message has to be received, or be sent from, *someone other than the Town Manager*. That person is not identified in the request.

Once again, the elements of a properly framed email request lists a named sender of a message, a named recipient of a message, a date frame and a subject matter. All of these elements must exist for a public agency to bear the burden of searching for a message.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the Town of Albion did not violate the Access to Public Records Act.

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

Luke H. Britt
Public Access Counselor

Distribution:

Mr. Stefan Wynn
Mr. Bill D. Eberhard, Jr., Esq.