



STATE OF INDIANA

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OPINION OF THE PUBLIC ACCESS COUNSELOR

JAMES BUSH,

Complainant

v.

CITY OF LAWRENCE

Respondent

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17-FC-05

ADVISORY OPINION February 27, 2017

This advisory opinion is in response to the formal complaint alleging The City of Lawrence (“City”) violated the Access to Public Records Act (“APRA”), Indiana Code § 5-14-1.5-1 et. seq. The City has responded on January 30, 2017 via Mr. David Johnson, Esq., Corporation Counsel. His response is enclosed for review. 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 January 12, 2017.

BACKGROUND

The formal complaint filed on January 12, 2017, alleges the City of Lawrence violated the APRA by denying your records request.

The Complainant sent a records request dated November 13, 2013, requesting the names of individuals receiving health insurance benefits with medical disability retirement, the years of service of those individuals, and the written policy which addressed disability of retired firefighters and police. The Complainant received an acknowledgement a month later that the inquiry was being processed. No other communication has been received from the Respondents.



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The City has responded stating as the request was made during a prior administration, they have been searching to determine what happened to Mr. Bush's request. Furthermore, it has been over thirty (30) days since the request was deemed denied and therefore the complaint was not timely filed.

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 City of Lawrence 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 City'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)*.

A formal complaint *must be filed within thirty (30) days of the denial of records or receiving information regarding a meeting held in secret or without notice*. I.C. § 5-14-5-7(a). Complaints filed beyond thirty (30) days are untimely and will be returned. Thirty (30) days has passed since the denial of public records request. As suggested by the Respondents it is best to submit a new request which fits in the guidelines of reasonable particularity pursuant to the statute to obtain those documents you were seeking. The City of Lawrence is willing to respond to records request which is in accordance with the APRA, but please be advised much of the information you seek would be either a personnel record or personal health information which may be withheld at the City's discretion.

CONCLUSION

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

Luke H. Britt

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

Public Access Counselor



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