

STATE OF INDIANA
COUNTY OF MONROE

IN THE MONROE SUPERIOR COURT
CAUSE NO: 53C01-2110-PL-002162

DAN COMBS, Trustee of
Perry Township (Monroe County, Indiana)

vs.

CITY OF BLOOMINGTON and
JOHN HAMILTON, Mayor

COMPLAINT FOR DISCLOSURE OF RECORDS UNDER “APRA”

NOW COMES Plaintiff Dan Combs (Combs), in his duly elected position as Trustee of Perry Township in Bloomington, Indiana, by counsel William R. Morris, Jr., and pursuant to Indiana Code 5-14-3 of the Access to Public Records Act (“APRA”), and complains against Defendants the City of Bloomington (“City”) and John Hamilton, Mayor (“Mayor”), as follows:

PARTIES

1. Dan Combs is a resident of Monroe County and is the duly elected Trustee of Perry Township, a governmental entity located within the City of Bloomington, Indiana.
2. Defendant, City of Bloomington, Indiana is a municipality located in the County of Monroe, in the State of Indiana.
3. John Hamilton is the duly elected Mayor of the city of Bloomington, in the County of Monroe, in the State of Indiana. As such, he is responsible for the actions, choices and decisions of the City’s legal department.

JURISDICTION AND VENUE

4. This action arises from the City’s refusal to provide records to Combs under APRA, Indiana Code § 5-14-3 *et. seq.*
5. This Court has jurisdiction over the subject matter of this lawsuit and over the Defendants.
6. Venue is proper in Monroe County pursuant to Indiana Code § 5-14-9(e), which provides that “[a] person who has been denied the right to inspect or copy a public record by a public agency may file an action in the circuit or superior court of the county in which the denial occurred to compel the public agency to permit the person to inspect and copy the public record.”

I. Request for Records – Re: Seminary Square

7. Combs, as the duly elected Trustee for Perry Township, is statutorily charged with, *inter alia*, assisting qualified residents obtain financial assistance with certain basic necessities. As such, Combs and other Township Trustees, may help with shelter or housing costs, utility bills, food, clothing, medical needs, burial expenses, or school supplies, or other assistance to those struggling with poverty and homelessness.
8. During the winter of 2020-2021, the Bloomington Police Department (BPD) was instructed by the City and Hamilton to disassemble, remove and evict an encampment of homeless persons from Seminary Square in Bloomington. The encampment was disassembled. The people were dispersed, and their personal property was confiscated by the BPD. The displaced persons were not immediately informed where their property was located. In most cases, the property was taken to a location several miles from the encampment. All these actions were highly controversial and the source of passionate and voluminous community conversations.
9. As Trustee of Perry Township (in which Seminary Square is located), Combs needed to assess and respond to this homelessness crisis. Along with other community partners (i.e. the United Way, the Bloomington Foundation Task Force on Housing and Homelessness, and Beacon (formerly Shalom), among others), a plan was created to provide housing assistance to those suffering homelessness. Combs and the Perry Township Board were instrumental in creating this plan. Having open and forthright information from the City and Hamilton was – and is -- essential to the success of such programs.
10. In mid-May, 2021, Combs instructed Township attorney William R. Morris, Jr., to obtain information and/or records from the City regarding the City's actions in Seminary Square. The first effort to obtain information and/or records was a phone conversation between Morris and Phillipa Guthrie, Corporate Counsel for the City of Bloomington. in mid-to-late May 2021. This conversation was cordial, but no information and/or records were obtained by Combs.
11. On or about June 2, 2021, Combs, again through Township Attorney Morris, submitted a formal written Request for Records to the City pursuant to APRA (**Exhibit 1**). The

request sought information pertaining to the City's policies in dealing with homelessness, including the City's use of police enforcement action to remove homeless encampments in Seminary Square (*and* other locations), as well as other actions taken by the city towards the homeless during the winter of 2020-2021.

12. On June 22, 2021, Morris sent a letter to Guthrie restating Combs' June 2nd request (**Exhibit 2**).
13. On June 30, 2021, Morris received a response from Jennifer Lloyd, Assistant City Attorney (**Exhibit 3**). In that email, Lloyd identified policies that provided little, if any, information instructive to how the city responded to events in Seminary Square, especially: 1. How the homeless receive notice of violations; 2. How and when actions by the homeless trigger police enforcement actions; 3. City policies on where the homeless are to sleep when no beds are available; and 4. What happens to personal property taken or confiscated by the police following displacements by police of the homeless
14. In the June 30th email, Lloyd cited Indiana Code § 5-14-3-3(a)(1) as a basis for the City's refusal to provide further records. She wrote that: "[T]o the extent that you are seeking records that indicate how *City policies were developed*, such records would fall under the "advisory or deliberative materials" exception (I.C. 5-14-3-4(b)(6)) and would not be subject to disclosure."
15. First, this response could, theoretically, apply to every decision – policy or otherwise - made by the City; and offers the public no guidance, to Combs, the Township Board or any others, in understanding the City's actions. Such vague responses are violative of both the letter and spirit of Indiana Code § 5-14-3 *et. seq.* Second, these responses show a blatant disregard of co-equal branches of government (the city and the Townships) in helping their mutual constituencies. Last, the response sheds no light on the arbitrary and capricious manner in which BPD power is employed to remove citizens from public rights-of-ways or other public spaces.
16. On July 29, 2021, Combs re-submitted a Request for Records (**Exhibit 4**), specifically City records regarding "inconsistencies in how city policies [were] carried out last winter against the homeless in Seminary Park and other locations."
17. On August 9, 2021, Lloyd responded by email (**Exhibit 5**). This email acknowledged the City's "conversations with unhoused persons": many of the very same people for whom

Combs, as Trustee, is charged with assisting. However, the City again failed to provide the content or nature of these “conversations.” On one hand, the City states it has information by which it determines when (or when not) to employ police power (“conversations”). On the other hand, the City refuses to provide records of these conversations. This sort of information shell game is wholly inconsistent with and a blatant violation of APRA.

II. Request for Records re: Grimes Street Bridge

18. Throughout the summer of 2021, a second encampment was allowed to develop under the Grimes Street Bridge in Bloomington. This Bridge is also located in Perry Township.
19. Though such an encampment appears to be in violation of certain City ordinances, the City allowed the encampment to grow for nearly 4 (four) months. Upward of 50 (fifty) people were reported to camp there.
20. On or about August 20, 2021, the BPD, under Hamilton’s authority and instruction, dismantled the encampment. The people were dispersed. Prior to August 20th, the City had put up signs at the encampment, giving “notice” to those in the encampment (**Exhibit 6**), that the dismantlement would take place on August 20th. The sign listed several community resources, including the Perry Township Trustee’s Office, but none of the other Trustees in Bloomington. It is this arbitrary type of decision making that Combs has sought to understand from the City.
21. On September 7, 2021, Combs submitted another Request for Records to the City. In addition to the information sought earlier about Seminary Square, this Request sought records pertaining to the Grimes Street displacement when, again, the use of police power was employed by the City. (**Exhibit 7**)
22. On September 23, 2021, Lloyd responded to the 9-7-21 Request for Records (**Exhibit 8**). This response included a new City policy (“Actions to Improve Safety”), a reference to Bloomington’s U-Records Report System, but no further records to explain either a. why the City allowed the encampment to remain in place for nearly 4 (four) months; or b. why and when the City chose August 20th to employ police power to displace those in the encampment.
23. In the September 23rd communications, Lloyd referred to Combs’ Requests as a “fishing expedition”, language which is certainly within Lloyd’s and City’s right. This reference,

however, is condescending, inaccurate, and dismissive of Combs' duties as status as Township Trustee, as well as his rights as a citizen.

24. Indiana Code 5-14-3 requires the City of Bloomington to provide the public "full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees." The City's failure to comply – or communicate in good faith with Combs and Perry Township in assisting unhoused persons violates both the Spirit and Letter of the Code and denies Combs (and all other residents of Bloomington) information for which he is entitled. The City's responses are nefarious, combative and fail to comply with Indiana Code 5-14-3.

WHEREFORE, Plaintiff Dan Combs, in his role as the elected Trustee of Perry Township in Bloomington, IN, respectfully requests that this Court issue an Order requiring: 1. That the City of Bloomington provide full and complete records as requested; and 2. Such other relief as this Court deems proper.

/s/ William R. Morris, Jr.
William R. Morris, Jr., Bar No. 31433-53
405 W. 6th Street, Suite I
Bloomington IN 47404
(812) 822-1232
Wimorris.attorney@gmail.com