

February 14, 2005

Sent Via Facsimile

Mr. Tim Tompkins
c/o Mr. John Emry
62 West Jefferson Street
Franklin, IN 46131

Re: Formal Complaint 05-FC-17; Alleged Violation of the Access to Public Records Act by the Town of Gosport

Dear Mr. Emry:

This is in response to your formal complaint alleging that the Town of Gosport (“Town”) violated the Access to Public Records Act (“APRA”) by failing to respond to your request for records. I find that Town violated the APRA.

BACKGROUND

Over the course of several months, but most recently on December 20, 2004, you mailed to Gosport Clerk Treasurer Jodi Hester a request for records on behalf of Tim Tompkins. To summarize your five requests, you are seeking with respect to the posting of five ton weight limit signs on public ways through Gosport: specific ordinances or resolutions of the Town; Council or Board minutes during which the posting of the signs was discussed or voted upon; engineering studies; and a copy of any tickets written on behalf of the Town for any vehicle alleged to have violated the five ton weight limit in Gosport.

You allege that you have not received any response to your repeated requests. You enclose a copy of the certified mail receipt showing a signature appearing to be that of Jodi Hester, Clerk Treasurer of the Town. I sent a copy of your complaint to Ms. Hester, but have not received a response.

ANALYSIS

Any person may inspect and copy the public records of a public agency during the agency's regular business hours, except as provided in section 4 of the APRA. Ind.Code 5-14-3-3(a). An agency that receives a request for records in the mail is required to respond to the request within seven (7) calendar days of its receipt of the request. IC 5-14-3-9(b). The subject of this complaint, your December 20 request, was received by Clerk Treasurer Hester on December 21, 2004. Her failure to respond within seven calendar days, or December 28, was deemed a denial of your right to inspect and copy the public records of the Town, and was a violation of the APRA. Her continuing failure to respond, to give you the records that you seek, or to cite to any exemption to disclosure, is a continuing violation of the APRA, and is actionable under IC 5-14-3-9(e).

CONCLUSION

For the foregoing reasons, I find that the Town of Gosport has violated, and continues to violate the Access to Public Records Act so long as it fails to respond to your request of December 20, 2004.

Sincerely,

Karen Davis
Public Access Counselor

cc: Ms. Jodi Hester