

November 28, 2005

Sent Via Facsimile

Randall Thomas
257 Muriel Drive
Scottsburg, IN 47170

Re: Formal Complaint 05-FC-225; Alleged Violation of the Access to Public Records Act by the Washington County Treasurer

Dear Mr. Thomas:

This is in response to your formal complaint alleging that the Washington County Treasurer ("Treasurer") violated the Access to Public Records Act.

BACKGROUND

You are a title examiner. You allege in your formal complaint, filed on October 26, 2005, that you appeared at the office of the Washington County Treasurer to do a search of the Treasurer's tax records on October 5, 2005. You state in your complaint that "the Washington County Treasury (sic) will not give you a copy of the current county taxes." I further gleaned from your complaint that you believe you were denied a paper copy of current county taxes. You did not explain how you were denied a copy of the record, nor did you allege specific facts showing that the Treasurer refused to print out a copy of the tax record.

I sent a copy of your complaint to the Treasurer. Shirley Batt, Washington County Treasurer provided a responsive letter, a copy of which I have enclosed for your reference. Ms. Batt did not specify whether or how she may have denied you a copy of the tax record, but from her response, I could glean that you were permitted to inspect the tax records via the office computer that is provided for all members of the public to search tax records. She also indicated that you asked the office how to print the screen information. She further explained that most title researchers bring their pen and paper and mark down the tax amounts or exemptions.

Ms. Batt went on to state that after she received a call from my office, she faxed you a copy of the tax record “as I had been asked to do by Ms. Schultheis” [the staff attorney].

ANALYSIS

Any person may inspect and copy the public records of any public agency during the agency’s regular business hours, except as provided in section 4 of the Access to Public Records Act (“APRA”). Ind. Code 5-14-3-3(a). The public agency shall either 1) provide the requested copies to the person making the request; or 2) allow the person to make copies on the agency’s equipment or on the person’s own equipment. IC 5-14-3-3(b). “Inspect” includes the right to manually transcribe and make notes, abstracts, or memoranda of a record. IC 5-14-3-2(g). “Copy” includes transcribing by handwriting, photocopying, xerography...and reproducing by any other means. IC 5-14-3-2(b). If a person is entitled to a copy of a public record under the APRA, and the public agency that is in possession of the record has reasonable access to a machine capable of reproducing the public record, the public agency must provide at least one (1) copy of the public record to the person. IC 5-14-3-8(e). However, if the public agency does not have reasonable access to a machine capable of reproducing the record or if the person cannot reproduce the record by use of enhanced access under section 3.5 of the APRA, the person is only entitled to inspect and manually transcribe the record. *Id.*

It is difficult to discern from your complaint precisely how the Treasurer may have denied you a record; allegations regarding the general attitude and behavior of staff in the Treasurer’s office do little to assist me in determining whether the public access law was violated. That said, it appears from your complaint letter and the Treasurer’s response that the Treasurer may have refused to give you a copy of the tax record that appeared on the computer screen. Ms. Batt has not assisted me to understand why the Treasurer did not allow you to print out the record, but it appears that you left the office after asking for and being denied a paper copy of the record. In fact, Ms. Batt later agreed to fax you a copy of the record after speaking with the staff attorney. Ms. Batt did not allege that the Treasurer’s office does not maintain a machine capable of reproducing the record.

If the Treasurer refused to provide the requested copies or did not allow you to make copies of the tax records on the agency’s equipment or on your own equipment, the Treasurer violated the Access to Public Records Act. It is not sufficient to deny a person a copy of a public record merely because other persons who are also title examiners often only inspect the Treasurer’s tax records without demanding copies.

CONCLUSION

The Washington County Treasurer is required to allow a person to make a copy of its tax records. If the Treasurer refused to allow you to make a copy of a public record, the Treasurer violated the Access to Public Records Act.

Sincerely,

Karen Davis
Public Access Counselor

cc: Shirley Batt