

November 26, 2007

Patricia Setty  
511 North Main Street  
PO Box 340  
Cloverdale, Indiana 46120

*Re: Formal Complaint 07-FC-324; Alleged Violation of the Open Door Law by the  
Town of Cloverdale Clerk-Treasurer*

Dear Ms. Setty:

This is in response to your formal complaint alleging the Cloverdale Clerk-Treasurer (“Clerk”) violated the Open Door Law (“ODL”) (Ind. Code 5-14-1.5) by failing to post notice for an executive session, causing the meeting to be cancelled. I have enclosed the Clerk’s response to your complaint for your reference. It is my opinion the Clerk did not violate the ODL.

#### BACKGROUND

In your complaint you allege that an executive session was to be held for mediation in a pending matter involving the Town of Cloverdale. The meeting was scheduled for October 15, 2007. You allege the Clerk did not publish proper notice of the meeting and as such the meeting could not be conducted. You sent your complaint on October 20, and I received it on October 22.

The Clerk responded to your complaint by letter dated November 7 from attorney William Groth. The Clerk contends that she did not post notice for the October 15 executive session because the Town attorney apparently forgot to tell her to do so. No executive session took place on October 15, and the meeting was rescheduled for November 26.

#### ANALYSIS

It is the intent of the Open Door Law that the official action of public agencies be conducted and taken openly, unless otherwise expressly provided by statute, in order that the people may be fully informed. I.C. §5-14-1.5-1. Except as provided in section 6.1 of the Open Door Law, all meetings of the governing bodies of public agencies must be open at all times for the purpose of permitting members of the public to observe and record them. I.C. §5-14-1.5-

3(a). Executive sessions may only be conducted for the enumerated instances listed in the ODL. I.C. §5-14-1.5-6.1.

Public notice of the date, time, and place of any meetings, executive sessions, or of any rescheduled or reconvened meeting, shall be given at least forty-eight hours (excluding Saturdays, Sundays, and legal holidays) before the meeting. I.C. §5-14-1.5-5(a).

Here you allege the Clerk failed to post notice of the October 15 meeting, and you ask that the Clerk be held accountable. It is my understanding no meeting was conducted on October 15. If no meeting was conducted, the notice provision of the Open Door Law could not have been violated. As such, it is my opinion the Clerk did not violate the ODL. The ODL does not address the Clerk's duties relating to publishing notices for meetings of town entities. As such, the issue of accountability is outside the purview of this office.

#### CONCLUSION

For the foregoing reasons, it is my opinion the Clerk did not violate the Open Door Law.

Best regards,



Heather Willis Neal  
Public Access Counselor

cc: Patti Truax, Cloverdale Clerk-Treasurer  
William Groth