

October 10, 2007

Ms. Cheryl Gridley  
137 East Pendle  
South Bend, Indiana 46637

*Re: Formal Complaint 07-FC-269; Alleged Violation of the Access to Public Records Act by the Town of Roseland*

Dear Ms. Gridley:

This is in response to your formal complaint alleging the Town of Roseland ("Town") violated the Access to Public Records Act ("APRA") (Ind. Code §5-14-3) by denying you access to records. I find that the Town of Roseland did not violate the APRA.

#### BACKGROUND

You are the Clerk-Treasurer of Roseland. Your complaint, postmarked on September 10, 2007 and received by this office on September 16, alleges the following: "Did reply to access but am still waiting papers requested. He refuses to give me copies of any correspondence that he does as a public official." I understand the "he" to be Teddy Penn of the Roseland Town Council. I cannot discern from your complaint any further specific information.

In response to your complaint, Mr. Penn in a letter dated September 20 contends he has provided you with the records you have requested.

#### 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." Ind. Code §5-14-3-1. "Public record" means any writing, paper, report, study, map, photograph, book, card, tape recording, or other material that is created, received, retained, maintained, or filed by or with a public agency and which is generalized on paper, paper substitutes, photographic media,

chemically based media, magnetic or machine readable media, electronically stored data, or any other material, regardless of form or characteristics. I.C. §5-14-3-2(m).

The Town is clearly a public agency for the purposes of the APRA. I.C. §5-14-3-2. Accordingly, any person has the right to inspect and copy the public records of the Town during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. I.C. §5-14-3-3(a).

Here Mr. Penn has indicated he has provided you with the requested records. While your complaint and Mr. Penn's response contain a volume of information about your apparent ongoing conflict, the State Board of Accounts audit of your office, and newspaper articles related to such, I do not find any further facts regarding the issue at hand.

#### CONCLUSION

For the foregoing reasons, I find no evidence that the Town violated the Access to Public Records Act.

Best regards,



Heather Willis Neal  
Public Access Counselor

cc: Ted Penn, Roseland Town Council