

November 29, 2004

Rosemary Penn
224 E. David Street
South Bend, IN 46637

Re: Formal Complaint 04-FC-203; Alleged Violation of the Access to Public Records Act by the Roseland Town Clerk

Dear Ms. Penn:

This is in response to your formal complaint alleging that the Roseland Town Clerk violated the Access to Public Records Act. I find that the Roseland Town Clerk did not violate the Access to Public Records Act.

BACKGROUND

On October 19, 2004, you sent a written request for records to Cheryl Gridley, Roseland Town Clerk. In your request, you stated: "This is a request for copies of the receipts for the invitations for the Cherrette meetings and the mailing (postage) of the same." It appears that you received a one-page document on October 21. The document is a photocopy of a receipt from Office Depot in Mishawaka showing a purchase of a 12 pack of invitations for \$9.97. Also on this document was the following handwritten notation: "stamps – 34 @ 37¢ = 12.58.

You filed your complaint on October 26, claiming that the Town Clerk did not produce the records that you requested. Specifically, you state that the Town Clerk did not give you the receipt for postage, and that the copy of the receipt you received showed only one box of 12 invitations, with the Town Clerk's notation "x 2 \$21.14" added to the receipt.

I sent a copy of your complaint to Cheryl Gridley. I enclose her response for your reference. She explained that because the Town buys stamps by the roll, a receipt showing the cost of 100 stamps would not indicate the cost of mailing the invitations, and your request was for information on the cost of mailing the invitations. With respect to the invitations, Ms. Gridley stated that the invitations are in a box of 12 with two invitations per sheet, and that she used a portion of a box of invitations that she had purchased previously. Ms. Gridley also stated

that her office is open during normal business hours so that members of the public may contact Ms. Gridley to receive more information about the Town's expenditures.

ANALYSIS

Any person may inspect and copy the public records of a public agency during the regular business hours of the agency, unless an exception to disclosure applies to a certain record. Ind.Code 5-14-3-3(a). The Town of Roseland is a public agency. IC 5-14-3-2.

In your October 19 request, you essentially request information rather than specific documents, although your request asked for documentation of the cost of purchasing and mailing the invitations for a meeting. Because you seemed to ask for information about the actual cost of purchasing and mailing the invitations, Ms. Gridley attempted to give you accurate information while also supplying you with the documentation that would show the actual cost. An agency is not required to create a record that it does not maintain in order to satisfy a specific request for information. Ms. Gridley stated in her response that giving you a copy of the receipt for a roll of postage stamps would not be responsive to your more specific request for the cost of mailing the invitations, so she provided you with the information you requested. Also, Ms. Gridley provided you with a receipt for the invitations, but added a notation to the receipt to indicate that there were more invitations sent for the meeting than appeared to be evident from the number on the receipt.

There was no violation of the Access to Public Records Act by the Town Clerk in this situation. I advise you to first contact the Town Clerk, or any other public agency that has responded to your records request, to attempt to resolve any misunderstanding regarding the precise nature of your request. Also, I advise that if you would like a copy of the receipt for the roll of 100 postage stamps, you should specifically request it.

CONCLUSION

For the foregoing reasons, I find that the Roseland Town Clerk did not violate the Access to Public Records Act.

Sincerely,

Karen Davis
Public Access Counselor

cc: Ms. Cheryl Gridley