

August 24, 2005

Brenda Wadkins
504 N. Jefferson St.
Silver Lake, IN 46982

Re: Formal Complaint 05-FC-146; Alleged Violation of the Access to Public Records Act by the Town of Silver Lake.

Dear Ms. Wadkins:

This is in response to your formal complaint alleging that the Town of Silver Lake (“Town”) violated the Access to Public Records Act by failing to respond to your requests for records.

BACKGROUND

On July 25, 2005 you filed a formal complaint with the Office of the Public Access Counselor. Your complaint was assigned formal complaint # 05-FC-146. You state that you filed a request for public records with the Town July 13, 2005. You placed your request in the “drop box” the evening of July 13, 2005. As of July 25, 2005 you had not received a response from the Town.

Ms. Angela Glass, Clerk-Treasurer for the Town of Silver Lake responded to your complaint by letter dated August 9, 2005. A copy of the letter is enclosed for your reference. Ms. Glass stated that your request was dropped in the utility payment drop box. The Deputy Clerk received the request on July 14, 2005. Ms. Glass was on sick leave and did not receive the request until July 21, 2005. On July 28, 2005 she notified you that copies of the requested documents were available to be picked up. Ms. Glass did not indicate whether you had been contacted regarding your request between July 14, 2005 and July 28, 2005.

ANALYSIS

Any person may inspect and copy the public records of any public agency, except as provided in section 4 of the APRA. IC 5-14-3-3(a). If a public agency receives a request for

records via U.S. mail, facsimile, or e-mail, it has seven days in which to respond. IC 5-14-3-9(b). When a person delivers a request for public records to an agency's mail slot or drop box the agency has seven days in which to respond to the request. *Opinion of the Public Access Counselor 03-FC-94*. A response may be an acknowledgment that the request for records was received, and a statement of how and when the public agency intends to comply. If the public agency fails to respond within seven days of its receipt of the request, the request is deemed denied.

Your request was received in the office of the Clerk-Treasurer on July 14, 2005. You stated that as of July 25, 2005, you had not received a response to your request. Ms. Glass has not disputed that assertion. Ms. Glass instead indicates that she did not personally receive your request until July 21, 2003. An agency's response must be made within seven days from the date the *agency* receives the request. The Town was required to respond to your request within seven days of receiving the request on July 14, 2005. While the Town may designate an individual to handle requests for public records it may not fail to comply with the APRA merely because that employee is absent from work. In Ms. Glass' absence the Deputy Clerk or another Town employee should have provided the required seven-day response to your request. The Town's failure to respond to your request within seven days of receipt of your request is a violation of the Access to Public Records Act.

Additionally, I note that the agency is not necessarily required to send the records within the time that its response is due. There are no specific deadlines in the APRA for a public agency to produce records. So long as the public agency produces records within a reasonable time, the agency has not violated the APRA.

CONCLUSION

For the foregoing reasons, I find that the Town of Silver Lake violated the Access to Public Records Act when it failed to respond to your request for access to public records within seven days of receipt of the request.

Sincerely,

Karen Davis
Public Access Counselor

cc: Angela Glass