

February 28, 2005

Mr. Michael G. Schalk
138 Murray Street
South Bend, IN 46637

*Re: Formal Complaint 05-FC-24; Alleged Violation of the Open Door Law by the
Town of Roseland*

Dear Mr. Schalk:

This is in response to your formal complaint alleging that the Town of Roseland (“Town”) violated the Open Door Law by seeking to have you forcibly removed from a meeting. I find that the Town did not violate the Open Door Law.

BACKGROUND

You allege that on January 13, 2005, Town Council members Dorothy and David Snyder were conducting a meeting. Following several motions that were not followed by discussion of the Council, you rose to voice your concern that the meeting was not being held in accordance with Roberts Rules of Order and speculating that Council members Dorothy and David Snyder, who are married, discussed these matters at home. You state that you were told that you were out of order and were to be removed from the meeting following a “verbal war of words.”

I sent a copy of your complaint to the Town. Town attorney Glenn L. Duncan submitted his written response on behalf of the Town. I have enclosed a copy for your reference. He stated that you were warned that you were being disruptive, and upon your failure to discontinue speaking, you were removed. The meeting continued to be open to the public and other members of the public did remain for the meeting. Cheryl Gridley, Roseland Clerk-Treasurer, also sent a response, which I enclose. She rebutted several items in your version of events, and stated that you were not a taxpayer of property that lies within Roseland.

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. Ind.Code 5-14-1.5-1. Accordingly, 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. IC 5-14-1.5-3(a). Although members of the public have the right to observe and record proceedings, the Open Door Law does not contain any requirement that members of the public be allowed to speak.

Even persons who do not pay property or other taxes within a town are entitled to attend, observe, and record the meetings of town governing bodies. The term “members of the public” is not restricted to only taxpayers. Hence, the Town’s obligation to hold open meetings may be invoked by any member of the public who wishes to attend a meeting.

You state in your complaint that you were initially allowed to observe and record the meeting. However, you were required to leave the meeting following your offering comments that apparently escalated into, in your own words, a “verbal war of words.” Although you may raise the public’s right to attend a meeting, I cannot say that the Town violated the Open Door Law by removing you or anyone else who threatens to disrupt the conduct of a meeting. In so stating, I am not judging the merits of the Town’s actions with respect to your removal from the meeting. I am merely stating that the Open Door Law is not at issue here, where your inability to observe the meeting was not due to the meeting being closed to the public or limited in some way so that the public in general could not hear or observe the meeting. I also note that, as stated in Ms. Gridley’s response, your tape recorder remained on for the remainder of the meeting; hence, you were allowed to record the meeting.

CONCLUSION

For the foregoing reasons, I find that the Town of Roseland did not violate the Open Door Law.

Sincerely,

Karen Davis
Public Access Counselor

cc: Ms. Cheryl Gridley
Mr. Glenn L. Duncan