

March 21, 2005

Mr. Donnie D. Slayton
Orange County Jail
205 East Main Street
Paoli, IN 47454

Re: Formal Complaint 05-FC-37; Alleged Violation of the Access to Public Records Act by the Paoli Town Council

Dear Mr. Slayton:

This is in response to your formal complaint alleging that the Paoli Town Council ("Town") violated the Access to Public Records Act by denying you access to town records. I find that the Paoli Town Council did not violate the Access to Public Records Act.

BACKGROUND

You allege that on January 28, 2005 you mailed a written request for records to the Paoli Town Council, at the Town Hall, Gospel Street. You requested a copy of all local ordinances, rules, regulations, guidelines, or state laws concerning property clean ups in the town of Paoli and the town council's power to enforce those ordinances, rules, etc. You filed your formal complaint on February 17, 2005, alleging that you were denied access to these records.

I sent a copy of your complaint to the Town. I received a written response from the Paoli Clerk-Treasurer Carolyn Clements. She stated that the Town, whose address is 110 North Gospel Street, has never received any request for town ordinances. She also advised me that the Town does have ordinances that are public records.

ANALYSIS

Any person may inspect and copy the public records of a public agency during the agency's regular business hours, except as provided in section 4 of the Access to Public Records Act ("APRA"). An agency is required to respond to a request for records within seven (7) days if the agency receives a request via U.S. Mail. Ind.Code 5-14-3-9(b). A public agency is not in

violation of the APRA if it fails to respond to a request for records that it has not received. Ms. Clements maintains that the Town did not receive your request for records of January 28. In fact, it appears from your certificate of service that the street number was omitted and the name of the agency to which you sent your request is incorrect. The Town did not fail to respond timely to your request, since the Town apparently did not receive your request.

In her response, Ms. Clements states that the town ordinances are available for inspection and copying. Ms. Clements' complaint response does not state whether the other records you request exist, such as rules, regulations, guidelines or state laws concerning property clean ups in Paoli. Had Ms. Clements' complaint response been a response to a request for records, it would have been incomplete. I advise public agencies to fully respond to requests for discrete records; for example, if no other types of records are maintained by the Town, a response for records should so state. However, Ms. Clements was not responding to a request for records; rather, she was responding to your complaint. I also note that the Town is not under any obligation to parse its records to identify only those ordinances that pertain to the subject matter you specify. The Town need only make all its ordinances available for inspection and copying in order to comply with the APRA.

CONCLUSION

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

Sincerely,

Karen Davis
Public Access Counselor

cc: Carolyn Clements