

October 20, 2004

Ms. Rosemary Penn
224 East David Street
South Bend, IN 46637

Re: Formal Complaint 04-FC-171; Alleged Violation of the Access to Public Records Act by the Town of Roseland

Dear Ms. Penn:

This is in response to your formal complaint alleging that the Town of Roseland (“Town”) violated the Access to Public Records Act (“APRA”) by failing to provide you with the public record you requested. I find that the Town of Roseland did not violate the Access to Public Records Act.

BACKGROUND

On September 2, 2004, you submitted to the Town of Roseland a request for a copy of a public record. Specifically, you requested “the most recent bank reconciliation for Roseland.” Ms. Cheryl Gridley, Town Clerk, told you that it would be available for you to pick up on September 8th. On September 8 you picked up the record, a copy of which you enclosed with your complaint. That record appears to be a handwritten reconciliation of three bank accounts. Once you received that record, you filed a formal complaint, which was received by this office on September 20, 2004. In your complaint, you state that what you received was not an official reconciliation, and that it was not on an official form. I forwarded a copy of your complaint to the Town of Roseland, and Ms. Gridley responded. I have enclosed a copy of her response for your reference.

Ms. Gridley states that she worked with the State Board of Accounts regarding the Roseland bank statements and that the record provided to you is exactly the same as the accounting bank balance provided by the State Board of Accounts. Ms. Gridley states that there is a form available for bank statements, but use of that form is not mandatory; furthermore, she states that all three Roseland accounts will not fit on the form she believes you are referring to.

ANALYSIS

The Town of Roseland is a public agency for purposes of the Access to Public Records Act. Ind. Code §5-14-3-2. Any person may inspect and copy the public records of a public agency during the regular business hours of that agency, unless the record is confidential or otherwise non-disclosable under IC 5-14-3-4. IC 5-14-3-3(a).

Your request to the Town of Roseland did not specifically state that you wanted access to an official bank reconciliation, or a reconciliation on an official form. Rather, you asked for “a copy of the most recent bank reconciliation.” In response, the Town provided you with a copy of a record that is responsive to your request. Because the Town provided you with a record that is responsive to your request, the Town did not violate the Access to Public Records Act.

Having received that record, you determined that you wanted an official bank reconciliation, or a reconciliation on an official form. Rather than contact the Town to formally request that record, or make inquiries about the existence of the information on such a form, you submitted a formal complaint directly to this office. Because the Town produced the record you requested, it did not violate the Access to Public Records Act.

I note that while you are entitled to request an official copy of the reconciliation, Ms. Gridley advises this office that the Town of Roseland does not maintain an official bank reconciliation, or a bank reconciliation on an official form. She acknowledges that there is a form that may be used for such statements, but she states that use of that form is not mandatory, and the form does not accommodate the Roseland bank accounts. Unless a statute requires that the Town create or maintain the record on a form, the Town has no obligation under the APRA to create a record that does not exist.

CONCLUSION

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

Sincerely,

Karen Davis
Public Access Counselor

cc: Ms. Cheryl Gridley, Clerk