

June 12, 2006

John Davis
204 N. Lafayette Street
Cloverdale, IN 46120

Judy Whitaker
P.O. Box 487
Cloverdale, IN 46120

*Re: Formal Complaint 06-FC-80; Alleged Violation of the Open Door Law by the
Cloverdale Town Council*

Dear Mr. Davis and Ms. Whitaker:

This is in response to your formal complaints alleging that the Cloverdale Town Council (“Council”) violated the Open Door Law by convening an executive session for an improper purpose. I find that you were present at the executive session and therefore lack standing to allege that you were denied the right to attend a public meeting.

BACKGROUND

You are members of the Cloverdale Town Council. You alleged that on May 3, 2006, members of the Council, Cloverdale Redevelopment Commission, Cloverdale town attorney, and the county economic development director met in an executive session. In the meeting, which you attended, the participants formulated a proposal as to what concessions the town would offer and agree to for an unknown developer to locate in Cloverdale. You raised concerns during the executive session as to the legality of holding the executive session, but your concerns were not addressed.

ANALYSIS

In 1999, the Indiana General Assembly enacted legislation creating the Office of the Public Access Counselor and a formal complaint process. The Public Access Counselor may

receive and respond to informal inquiries and issue advisory opinions in response to formal complaints. IC 5-14-4-10(5) and (6). An informal inquiry may be made by the public or public agencies by telephone, in writing, by facsimile, in person, or electronic mail. IC 5-14-4-10(5). The informal inquiry process, therefore, is available to any person who has questions or concerns about the state's public access laws.

In contrast, in the formal complaint process, the grounds for filing a formal complaint and receiving a formal advisory opinion in the context of the Open Door Law are limited to when any person or public agency is denied the right to attend any public meeting of a public agency in violation of the Open Door Law or any other right conferred by the Open Door Law or any other statute or rule governing access to public meetings. IC 5-14-5-6.

You have alleged in your complaints that the Council met in violation of the Open Door Law because the purpose for the meeting of May 3rd did not fit any of the purposes under Indiana Code 5-14-1.5-6.1(b). In the present case, you were not denied the right to attend a public meeting of the Council. For this reason, you do not have grounds to file a formal complaint with this Office. You are, however, entitled to receive an informal response to your concerns and that response is enclosed.¹

CONCLUSION

For the foregoing reasons, it is my opinion that you do not have grounds to file a formal complaint with this Office alleging violations of the Open Door Law because you were not denied the right to attend a public meeting of the Cloverdale Town Council. You are entitled to and will receive an informal inquiry response.

Sincerely,

Karen Davis
Public Access Counselor

cc: Don Sublett, Town Council President

¹ For those who are viewing this opinion electronically, [click here](#) to access the text of the informal written response.