

## When Requests for Records are Denied

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Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](http://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

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## When Requests for Records are Denied

**Reference Number:** MTAS-449

When a municipality denies a request for records or impedes a requestor's ability to access public records, the Act guarantees the requestor's right to petition a court for access to the records. T.C.A. § 10-7-505(a). At trial, the municipality has the burden of proving that it did not violate the Act. T.C.A. § 10-7-505(c). A court must then weigh the evidence presented by the municipality against the court's duty to construe the Act "to give the fullest possible access to public records." T.C.A. § 10-7-505(d). If the court finds that the municipality "willfully" violated the Act, the "court may, in its discretion, assess all reasonable costs involved in obtaining the record, including reasonable attorneys' fees, against the municipality." T.C.A. § 10-7-505(g).

## When Requestors Fail to Inspect in a Timely Manner or Pay for Copies

**Reference Number:** MTAS-3001

For nearly 60 years, there was language in the act that set out the recourse that a citizen had when he/she felt that a municipality failed to provide access to requested records, but there was no language in the Act that provided municipalities any recourse when requestors failed to inspect in a timely manner or failed to pay for requested copies. However, both of these issues are now addressed by the language in T.C.A. § 10-7-503(a)(7)(A)(vii)(a)-(b). Now, if a requestor makes two (2) requests to inspect within a six (6) month period and fails to inspect the records within 15 days of being notified that they are available to inspect, the municipality is not required to comply with any public records request from the requestor for six (6) months from the date that the second request was made, unless the municipality determines that failure to inspect was for a good cause. Additionally, when a request for copies is made, an estimate is provided to the requestor in writing, the requestor agrees to pay the estimate, which should also be in writing, the copies are produced and the requestor fails to pay for the copies, the municipality is not required to comply with any public records request from the requestor until the requestor pays for copies that were produced.

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