



STATE OF NEBRASKA
Office of the Attorney General

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November 10, 2016

William H. Foster
Better Airports, LLC
4504 North Versailles Avenue
Dallas, TX 75205

RE: *File No. 16-R-136; Wahoo Airport Authority; William Foster, Petitioner*

Dear Mr. Foster:

We are writing in response to your e-mails sent to the Office of the Attorney General on October 27 and 28, 2016, in which you petition this office to review the response of the City of Wahoo Airport Authority (the "Airport Authority") to a public records request submitted by you on October 13, 2016. We consider your e-mails under the Nebraska Public Records Statutes, Neb. Rev. Stat. §§ 84-712 through 84-712.09 (2016) ("NPRS").

We have carefully reviewed your petition and have received a response from Melissa Harrell, Wahoo City Administrator, regarding your petition. Your petition included only emails sent by you to the Airport Authority on October 13, 2016 and after, and omitted pertinent prior communication with the Airport Authority. We understand from Ms. Harrell that you made a public records request on October 4, 2016 for "any and all applications for Aerial Application Operations, including Sub Contracts, with the Wahoo Airport Authority since December 31, 2015 to date." Ms. Harrell indicates that you agreed to allow her additional time to respond to your request, and she did so on October 13, 2015, providing all documents responsive to your request. You then sent her the first email in your petition, for "any and all Applications, records of approvals, records of denials for Aerial Application Operations, including Sub Contracts, that requested to conduct Aerial Application Operations at the Wahoo Airport in 2016, and those that were denied to operate Aerial Application Operations at the Wahoo Airport in 2016." Ms. Harrell states to us that this appeared to her to be an extension of your first request, and not a new request. The only additional information requested in your October 13 request which had not been provided to you in response to your October 4 request was meeting minutes from the Airport Authority Board showing approvals and denials of applications. Those minutes were provided to you on October 27, 2016.

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Based upon our assessment of the facts in this matter we do not believe that you have been improperly denied access to public records. Ms. Harrell has represented to us, and to you in her October 27, 2016 email to you, that she has provided copies of all documents requested by you. While you appear to believe there are additional documents in existence which have not been provided, Ms. Harrell assures us there are not. We are in possession of no facts or evidence that would lead us to conclude that the Airport Authority is not being truthful. When we receive petitions under Neb. Rev. Stat. § 84-712.03, our focus is to ensure that citizens have not been improperly denied public records. Our authority under the NPRS is limited to ordering disclosure of the record sought, and as the Airport Authority represents that you have received all records, we have no authority to take any action, other than to remind it of the requirement found in the NPRS to respond to all public records requests within four business days. Neb. Rev. Stat. § 84-712(4).

We would also note that the Airport Authority is not required by the NPRS to provide copies of any documents which can be found on its website. Neb. Rev. Stat. § 84-712(3)(a). As portions of what you requested were approvals and/or denials made by the Airport Authority, such information would be found in the minutes of the Airport Authority Board, which are readily available on the Airport Authority's website. As such, the Airport Authority is not required to provide you copies of those documents, but may simply direct you to its website.

Since the Airport Authority has provided the records which are responsive to your public records request, we see no basis for further action by this office and we are closing this file. If you disagree with our analysis under the Public Records Statutes set out above, you may wish to determine what additional remedies, if any, are available to you under those statutes.

Sincerely,

DOUGLAS J. PETERSON
Attorney General



Natalee J. Hart
Assistant Attorney General

cc: Melissa Harrell

02-640-29