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November 2, 2012

VIA E-MAIL TO johnmhurley1@gmail.com

John M. Hurley

RE: *File No. 12-R-132; Douglas County District Court and Douglas County Treasurer; Petitioner John Hurley*

Dear Mr. Hurley:

This letter is in response to your e-mail sent to this office on September 16, 2012, in which you requested our assistance in obtaining certain information belonging to the Douglas County Treasurer's Office and the Clerk of the District Court of Douglas County. We considered your e-mail a petition under the Nebraska Public Records Statutes, Neb. Rev. Stat. §§ 84-712 through 84-712.09 (2008, Cum. Supp. 2010, Supp. 2011). As is our normal practice with public records petitions, we forwarded your petition and the underlying public records request to the two offices involved. However, the initial responses we received indicated some confusion as to the actual receipt and/or location of your requests. Consequently, on October 10, 2012, we contacted you to obtain the date stamped copies of your requests, which you provided to us on October 15. On October 16, 2012, our office forwarded a copy of those materials to the offices involved, and requested a response from each as to whether it had records responsive to your request. We have now received and considered those responses. Our findings and future action in this matter are set forth below.

Before we begin, we note that you requested the following information:

> [T]he accounting list that contains either monies escheated to the State or of those monies being held locally at the County level. Specifically, I am looking for a list that would contain overages from foreclosure sales and/or tax sales, unclaimed inheritance monies (estates).

Douglas County Treasurer's Office

Chief Deputy Tim Cavanaugh responded on behalf of his office. According to the documentation provided, it appears that Mr. Cavanaugh attempted to respond to your request on August 21, 2012, but typed in the wrong e-mail address. Mr. Cavanaugh indicates that he has since successfully communicated his message to you, i.e., that the *Nebraska* State Treasurer's Office maintains the funds you are inquiring about. It appears, therefore, that the Douglas County Treasurer's Office has no records responsive to your request.

Clerk of the District Court

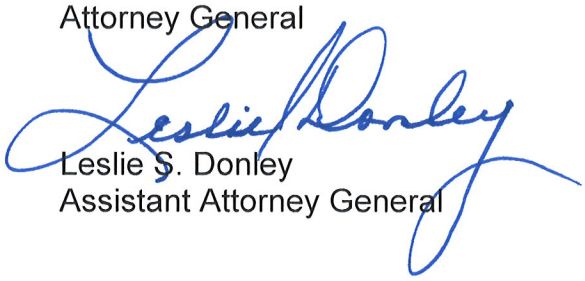
According to John Friend, Clerk of the District Court, his office has no list of tax foreclosure or tax lien cases where there was an overpayment of money. Nor does the court's case management system have the capability to compile such a list. Mr. Friend states that all of these types of cases are civil cases. And while a list of all civil cases filed in the Douglas County District Court could be provided to you, you would have to manually check each case to determine what type of case it was and to see if any money was paid into it. With respect to the inheritance or probate issues/cases, Mr. Friend advised that Probate Court, i.e., Douglas County Court, would be the appropriate place to look. Again, it appears that this office has no records responsive to your request.

We have carefully considered each of these responses. Both offices have said that they do not have any responsive documents, and we have no reason to look behind these representations. Since there are no documents responsive to your request, you have not been unlawfully denied access to public records. As a result, we are closing our file. We would suggest that you follow up with the Nebraska State Treasurer with respect to any records relating to money which has escheated to the State of Nebraska, or for any unclaimed inheritance monies.

If you disagree with our legal analysis set out herein, you may wish to consult with your private attorney to determine what additional remedies, if any, are available to you under the Nebraska Public Records Statutes.

Sincerely,

JON BRUNING
Attorney General



Leslie S. Donley
Assistant Attorney General

cc: John W. Ewing, Jr. (via e-mail)
John M. Friend (via e-mail)

49-912-30