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January 23, 2014

Cheryl Methe
11009 N. 69th St
Omaha, NE 68152

RE: *File No. 14-R-101; Omaha Airport Authority; Cheryl Methe, Petitioner*

Dear Ms. Methe:

This letter is in response to your Public Records complaint received by us on January 8, 2014, in which you requested our review of a public record request made by you to the Omaha Airport Authority ("Airport Authority") for documents related to Board meetings, as well as the Airport Authority's marketing plan for 2014. As is our normal practice with such complaints, we contacted the party against whom the complaint was made in regards to your complaint. We spoke with Stanley Kathol, Director of Finance and Administration for the Airport Authority. We have now considered your complaint and the Airport Authority's response under the Public Records Statutes, Neb. Rev. Stat. §§ 84-712 through 84-712.09 (Reissue 2008, Cum. Supp. 2012, Supp. 2013), and our findings in this matter are set forth below.

RELEVANT FACTS

Our understanding of the facts in this case is based on your complaint and our phone conversation with Mr. Kathol.

On December 30, 2013 you made a public records request of the Airport Authority for the following records:

1. The minutes for Airport Authority meetings held on October 15, 2013; November 19, 2013; and December 17, 2013;
2. A copy of the 2014 Airport Authority marketing plan; and
3. The "public viewing documents" for the Airport Authority meetings held

October 15 and December 17.

While the term "public viewing documents" is not used in the Public Records Statutes or the Open Meetings Act, we understand you to mean what the Open Meetings Act references in § 84-1412 (8) as "all reproducible written material to be discussed at an open meeting" to be made available for examination and copying at the meeting site.

The Airport Authority, through Mr. Kathol, responded to you on January 3, 2014 and provided you with the minutes of the October and November 2013 meetings and stated that the marketing plan you requested does not exist. He also explained that the minutes from the December 2013 meeting were not yet available, but would be following the Airport Authority Board's meeting on January 21, 2014.

You petitioned this office for a review of the Airport Authority's response, complaining that the December 2013 meeting minutes were not yet available and alleging that you did not receive the "public viewing" documents from the October 15, 2013 meeting. You appear satisfied that you received the remainder of the items you requested from the Airport Authority.

We spoke with Mr. Kathol on January 8, 2014. While the Airport Authority does not yet consider the minutes of the December 17, 2013 meeting "final," they have now sent you a draft copy of those minutes. They have also assured us that any documents reviewed by the Airport Authority Board at its meetings and requested by you have been provided. Mr. Kathol has confirmed for us that there were no documents reviewed by the Airport Authority Board members during the October 15, 2013 meeting, which you are referring to as "public viewing documents." We understand he sent you a letter dated January 8, 2014 confirming the same.

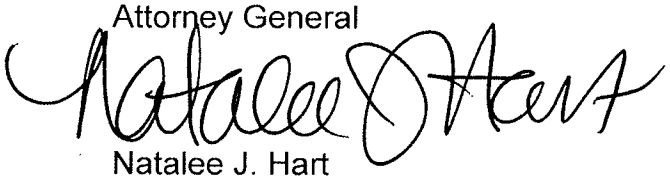
DISCUSSION

Generally speaking, the Nebraska Public Records Statutes allow interested persons in Nebraska the right to examine public records in the possession of public agencies during normal agency business hours, to make memoranda and abstracts from those public records, and to obtain copies of public records in certain circumstances. A public body is not required, however, to create documents that do not otherwise exist, or to answer questions made to the public body under the guise of a public records request.

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. Since the Airport Authority has now 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.

Sincerely,

JON BRUNING
Attorney General



Natalee J. Hart
Assistant Attorney General

cc: Stanley Kathol

02-395-30