



STATE OF NEBRASKA
Office of the Attorney General

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ATTORNEY GENERAL

NATALEE J. HART
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May 24, 2010

Michelle Hoerler
Chairperson, Board of Trustees
Village of Broadwater
PO Box 70
Broadwater, NE 68125

RE: *File No. 10-R-120; Village of Broadwater; Michelle Hoerler*

Dear Ms. Hoerler:

This letter is in response to your Public Records complaint received by us on May 17, 2010, in which you requested our review of a response, or lack thereof, by the Village of Broadwater Library Board ("Library Board") to your request for records belonging to that public body. We have carefully reviewed your request under the Public Records Statutes, Neb. Rev. Stat. §§ 84-712 through 84-712.09 (2008, Supp. 2009). We also contacted Mr. Bruce McKibben, Chairman of the Library Board, regarding your complaint. Our findings in this matter are set forth below.

FACTS

Our understanding of the facts in this case is based on your Public Records Request and our conversation with Mr. McKibben. You requested phone records of the Village library, the most recent of which have not yet been provided. As the Library Board is an entity of the Village, and the Village governing body is the requestor of the records, we are unclear as to why a public records request was necessary. That notwithstanding, your complaint, as we see it, is that the Library Board did not respond within the four business days required by statute.

ANALYSIS

The Nebraska Public Records Statutes are found at Neb. Rev. Stat. §§ 84-712 through 84-712.09. Neb. Rev. Stat. § 84-712 (2008) provides:

- (4) Upon receipt of a written request for access to or copies of a public record, the custodian of such record shall provide to the requester as soon as is practicable and without delay, but not more than four business days after actual receipt of the request, either (a) access to, or, if copying equipment is reasonably available, copies of the public record, (b) if there is a legal basis for denial of access or copies, a written denial of the request together with the information specified in section 84-712.04, or (c) if the entire request cannot with reasonable good faith efforts be fulfilled within four business days after actual receipt of the request due to the significant difficulty or the extensiveness of the request, a written explanation, including the earliest practicable date for fulfilling the request, an estimate of the expected cost of any copies, and an opportunity for the requester to modify or prioritize the items within the request.

Neb. Rev. Stat. §84-712(4) requires the custodian of the records to reply within four business days of the receipt of a written request for records; a verbal request is insufficient. That reply can request additional time to compile the records, but it must give an approximation as to the date the public body anticipates providing the records. Mr. McKibben stated that the phone records currently in the possession of the Library Board are being copied during the business hours of the library, as the staff has time. A public body is not required to abandon all other work to fulfill a public records request. As we understand it, the library is only open ten hours per week. Mr. McKibben indicated the records you requested would be available at the June meeting of the Village Board. We requested that Mr. McKibben see that a letter is sent to you providing this information. We also spoke with him regarding the requirements of the Public Records Statutes to provide a reply within four business days.

As it appears that the Library Board will be providing the records to you, this office will take no further action relating to this matter and will close our file accordingly.

CONCLUSION

For the reasons stated above, we do not believe that you have been denied access to public records. 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.

Michelle Hoerler
March 24, 2010
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Sincerely,

JON BRUNING
Attorney General

A handwritten signature in black ink, appearing to read "Natalee J. Hart". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

Natalee J. Hart
Assistant Attorney General

cc: Bruce McKibben, Library Board Chairman

02-145-20