

STATE OF NEBRASKA
Office of the Attorney General

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DOUGLAS J. PETERSON
ATTORNEY GENERAL

LESLIE S. DONLEY
ASSISTANT ATTORNEY GENERAL

January 17, 2019

Dana Krass
[REDACTED]

RE: *File No. 19-R-101; Village of Alvo; Dana Krass, Petitioner*

Dear Mr. Krass:

This letter is in response to your correspondence emailed to our office on January 1, 2019, in which you sought our assistance in obtaining public records from the Village of Alvo ("Village"). We construed your correspondence to be a petition for review under Neb. Rev. Stat. § 84-712.03 (Cum. Supp. 2018) of the Nebraska Public Records Statutes, Neb. Rev. Stat. §§ 84-712 through 84-712.09 (2014, Cum. Supp. 2018) ("NPRS"). When we receive petitions of this nature, our normal practice is to contact the entity involved and advise it of the opportunity to provide a response to this office. In this case, we faxed a copy of our letter and your petition to the Village clerk, Christina Vidlak, on January 4. We informed Ms. Vidlak of our enforcement responsibilities under the NPRS, and asked that any response from the Village be submitted to our office no later than the close of business on Friday, January 11, 2019. Our office received no response. We have set out our preliminary findings and future steps below.

YOUR PUBLIC RECORDS REQUESTS

On October 22, 2018, you emailed a public records request to the Village using the address villageofalvo@outlook.com, seeking the following:

[A] record of all communications regarding the Alvo Rescue Squad by any Village Board member and / or employee of Alvo, Nebraska. Both initiated and received from the dates of October 1, 2018 to current. All communications.

You clarified your request on October 23, indicating that you would "not need Dave Morgan's." Later that day, you added the following items to your previous request:

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. . . I need [a] record of all Village of Alvo notices, discussion, and action including the rescue squad also.

On October 26, 2018, you narrowed the scope of your requests to three individuals, i.e., Robin LaPage, Taylor Glantz, and Ben Glantz. You clarified that you were seeking all records relating to the Alvo Rescue Squad, including email, text messages and phone records. You indicate in your petition that you received no response from the Village. As noted above, this office also received no response from the Village.

DISCUSSION

The basic rule for access to public records is found in Neb. Rev. Stat. § 84-712(1) (2014). That provision states that

[e]xcept as otherwise expressly provided by statute, all citizens of this state and all other persons interested in the examination of the public records as defined in section 84-712.01 are hereby fully empowered and authorized to (a) examine such records, and make memoranda, copies using their own copying or photocopying equipment in accordance with subsection (2) of this section, and abstracts therefrom, all free of charge, during the hours the respective offices may be kept open for the ordinary transaction of business and (b) except if federal copyright law otherwise provides, obtain copies of public records in accordance with subsection (3) of this section during the hours the respective offices may be kept open for the ordinary transaction of business.

The stated purpose of the statute is "to guarantee that public government records are public." Introducer's Statement of Purpose for LB 505, 72nd Nebraska Legislature (1961). "Public records" are defined as "all records and documents, regardless of physical form, of or belonging to this state, any county, city, **village**, political subdivision, or tax-supported district in this state, or any agency, branch, department, board, bureau, commission, council, subunit, or committee of any of the foregoing . . ." Neb. Rev. Stat. § 84-712.01(1) (2014) (emphasis added). Under this plain language, the Village of Alvo is subject to the NPRS, and must respond to a written request for public records no later than four business days after actual receipt of such request. See Neb. Rev. Stat. § 84-712(4) (2014).

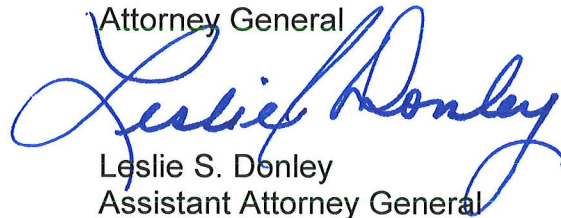
Upon receipt of a petition filed pursuant to Neb. Rev. Stat. § 84-712.03(1)(b), this office is required "to determine whether a record may be withheld from public inspection or whether the public body that is custodian of such record has otherwise failed to comply with such sections . . ." Since no responses have been generated by the Village on this matter, we are unable to make any determination at this time. We recognize that the

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clerk's office is only open for a limited number of hours on Saturday mornings.¹ However, this fact provides no basis or excuse for continued noncompliance by the Village clerk. Therefore, we will demand a response as to the disposition of your records requests from the Village, by forwarding a copy of this letter to Ms. Vidlak, by no later than the close of business on January 31, 2019. This deadline will give Ms. Vidlak an opportunity to discuss your records requests at the next Village board of trustees meeting scheduled, according to the Village's website, for January 23, 2019. Finally, we will remind Ms. Vidlak that Neb. Rev. Stat. § 84-712.09 (2014) provides sanctions for noncompliance of the NPRS.

Sincerely,

DOUGLAS J. PETERSON
Attorney General



Leslie S. Donley
Assistant Attorney General

c: Christina Vidlak

49-2147-29

¹ See the Village of Alvo's website at <https://www.alvonebraska.com/>.