



STATE OF NEBRASKA  
**Office of the Attorney General**

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**MIKE HILGERS**  
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**LESLIE S. DONLEY**  
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August 1, 2023

Via email at [REDACTED]  
Dana Krass

RE: *Public Records Matter Involving "Elmwood Rescue"*  
File No. 20231101

Dear Mr. Krass:

This letter is in response to your correspondence emailed to our office on July 7, 2023, which we received on July 10. You have requested our assistance in obtaining a grant application belonging to Elmwood Rescue, a volunteer fire department ("Department"). You indicate that you requested this information on June 29, 2023, but received no response. On July 25, we wrote to you requesting a copy of the public records request you emailed to the Department.<sup>1</sup> Our correspondence also noted our concern that since it appeared the Department was a nonprofit organization, it was not subject to the Nebraska Public Records Statutes ("NPRS"), Neb. Rev. Stat. §§ 84-712 to 84-712.09 (2014, Cum. Supp. 2022). You subsequently provided us your request and information to support your contention that the Department is subject to the NPRS. Our findings with respect to this issue are set forth below.

The definition of "public records" is set out in § 84-712.01(1), which states in part that

[e]xcept when any other statute expressly provides that particular information or records shall not be made public, public records shall include all records and documents, regardless of physical form, of or belonging to this state, any county,

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<sup>1</sup> Your request stated in its entirety: "I need to request the complete grant application for the \$500 grant that was awarded to the Elmwood Rescue in June of 2023 by the Elmwood Community Foundation."

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.

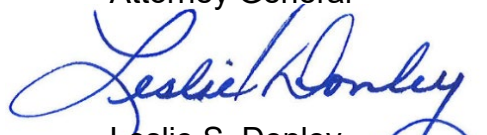
(Emphasis added.) In addition to your materials, we reviewed the Nebraska Budget Act, Neb. Rev. Stat. §§ 13-501 to 13-513 (2022); the Local Government Miscellaneous Expenditures Act, Neb. Rev. Stat. §§ 13-2201 to 13-2204 (2022); Neb. Rev. Stat. §§ 35-101 to 35-109 (2016, Cum. Supp. 2022) (Volunteer Fire Companies); and Neb. Rev. Stat. § 35-901 (2016) (trust funds of volunteer departments). The undersigned also spoke with staff from the State Auditor's Office about this issue, specifically the January 4, 2022, audit letter<sup>2</sup> contained in your materials.

Based on our review and discussion, this office has concluded that volunteer fire departments are not subject to the NPRS. They are not any of the governmental entities listed in the statute above. Volunteer fire departments are also not "tax-supported districts" because they have no direct levy authority, like a rural or suburban fire protection district.<sup>3</sup> While volunteer fire departments may receive tax dollars, this fact alone does not make them "tax-supported districts." Consequently, Elmwood Rescue has no legal obligation to respond to your records request.

If you disagree with our conclusion, you may wish to discuss this matter with your private attorney to determine what remedies, if any, may be available to you under the NPRS or other Nebraska law.

Sincerely,

MIKE HILGERS  
Attorney General



Leslie S. Donley  
Assistant Attorney General

49-3288-30

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<sup>2</sup> This letter addressed the Elmwood Rural Fire Protection District's lack of documentation to support its disbursement to the Elmwood Volunteer Fire Department as a reimbursement for a purchase of lights. The Auditor "recommend[ed] the District implement procedures for documenting the expenditure of public funds by it, whether directly or otherwise, to ensure the proper use of those monies." Audit Letter at 2.

<sup>3</sup> See Neb. Rev. Stat. §§ 35-501 to 35-540 (2016, Cum. Supp. 2022).