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Office of the Attorney General

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March 26, 2024

Via email: [REDACTED]
Jena Orłowski

RE: *Public Record Matter Involving Stanton County Board of Commissioners*
Our File No. 20241055

Dear Ms. Orłowski:

This letter is in response to your correspondence received by this office on March 18, 2024, in which you sought our assistance regarding your public records request to the Stanton County Board of Commissioners ("Board") dated February 9, 2024. We considered your petition in accordance with the Nebraska Public Records Statutes ("NPRS"), Neb. Rev. Stat. §§ 84-712 to 84-712.09 (2014, Cum. Supp. 2022). Our findings in this matter are set out below.

RELEVANT FACTS

You requested records regarding a specific contractor "retained by the County to assist in snow removal" and Stanton County's snow removal operations. Specifically, you sought (1) the contractor's name and contact information, and (2) the contractor's terms of engagement with Stanton County. You also asked for "the GPS tracking data for all county equipment involved in snow removal operations from 1/12/2024 to 1/18/2024."

On February 15, 2024, the Board issued a response providing "the billing received from the contractor" that included the contractor's name and contact information as well as "the GPS tracking sheets for county equipment involved in the snow removal operations from 1/12/2024 to 1/18/2024." The Board further indicated that there were no written terms of engagement between Stanton County and the contractor. According to the documents attached to your petition, the Board produced the records identified in its

response. The GPS tracking sheets included information for county snow removal units pertaining to the start and end of each units' operation, the corresponding start and arrival times, and the distances traveled.

Your petition claims deficiencies in the Board's response to your request. Specifically, you allege the following:

1. Previous correspondence with the Stanton County Commissioner contained inconsistent statements and descriptions of events;
2. The GPS tracking reports produced by the Board were incomplete; and
3. The reports were redacted based on ancillary communication between you and Verizon.

In connection with these allegations, your petition seeks "to view the actual GPS data, plotted on a map . . . showing the actual physical location of the county snow removal equipment for the entire period" between January 12 and January 18, 2024.¹

DISCUSSION

As a general matter, the NPRS set forth public bodies' obligations in responding to requests for public records. As pertinent to this matter, § 84-712(4) provides:

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.

¹ Your petition also discusses your reasons for seeking the requested materials. For your information, "[t]he public records statutes apply 'equally to all persons without regard to the purpose for which the information is sought.' As a general rule, citizens are not required to explain why they seek public information." See *BH Media Group, Inc. v. Frakes*, 305 Neb. 780, 801, 943 N.W.2d 231, 247 (2020). Accordingly, this office does not consider the reason or purpose for a records request when making our determinations under § 84-712.03(1)(b).

Public bodies such as the Board must comply with these requirements, as well as all other obligations set forth in the NPRS.

First, we conclude that, based on the Board's production of the GPS tracking sheets, the Board satisfied your request for GPS tracking data relating to Stanton County's snow removal operations between January 12 and 18, 2024. Namely, the tracking sheets set forth the individual snow removal units' travel paths during the requested timeframe and the corresponding dates and times of operation and travel. The information provided by the Board was therefore responsive to your request for GPS data.

Further, we note incongruities between your request submitted to the Board and your petition to this office. As described above, you requested "the GPS tracking data for all county equipment involved in snow removal operations from 1/12/2024 to 1/18/2024." Your petition demands that you be provided with "the GPS data, plotted on a map . . . showing the actual physical location of the county snow removal equipment for the entire period." However, you did not request this specific data from the Board. As set forth in § 84-712.03(1)(b):

Any person denied any rights granted by sections 84-712 to 84-712.03 may . . . [p]etition the Attorney General to review the matter 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."

Thus, where records different from those initially requested are sought, a new request must be submitted to the public body before this office may review a petitioner's claims regarding the public body's compliance with the NPRS. Consequently, to the extent that it seeks records not otherwise included in your initial request to the Board, your petition to this office is improper.

CONCLUSION

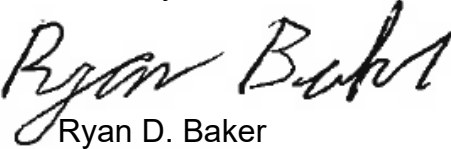
As discussed above, we conclude that the Board has provided you records responsive to the items in your February 9, 2024, request. Since you are now seeking records that differ from those items, a new request must be submitted to the Board. As

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we have identified no violation of the NPRS by the Board, no further action by this office is warranted, and we are closing this file.

Sincerely,

MIKE HILGERS
Attorney General


Ryan D. Baker
Assistant Attorney General

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