



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

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**MIKE HILGERS**  
ATTORNEY GENERAL

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July 18, 2025

Via email at [REDACTED]  
Tracy Aksamit  
[REDACTED]

RE: *Public Records Matter Involving the City of Lincoln*  
File No. 20251075

Dear Ms. Aksamit:

This letter is in response to your public records petition received by this office on July 3, 2025, in which you requested our assistance with respect to a public records request submitted to the City of Lincoln (City) on April 16, 2025. We forwarded your petition to Assistant City Attorney Rick Tast upon receipt and requested a response, which we received on July 15, 2025. We considered this matter under the Nebraska Public Records Statutes (NPRS), Neb. Rev. Stat. §§ 84-712 to 84-712.09 (2024), and our findings are set forth below.

### **RELEVANT FACTS**

On April 16, 2025, you emailed Lincoln Mayor Leirion Gaylor Baird regarding a 1998 interlocal agreement which established the Lincoln-Lancaster County Health Department and the Board of Health (BOH). In this email, you described your efforts to confirm that the document was the most current agreement without success. Consequently, you requested confirmation regarding this document and

all documents establishing and setting requirements for the Board of Health including application, appointment, and approval, and a copy of any rules or procedures adopted by the Board, and all interpretations of Board of Health operational agreements, policies or procedures issued by the City Attorney's office related to policy-making.

I would also like a copy of the ordinance and/or procedure that establishes the member application, appointment, approval and procedures for operating committees, such as the Telecommunication Committee, beyond what is available online, including requirements for meeting notifications.

Emails between you and Mr. Tast containing a clarification and fulfillment estimates were sent April 22, May 2, and May 13. On May 23, Mr. Tast responded to your April 16 request. He advised that under the NPRS, “production of a public record that is available on the City’s website is not required.” Mr. Tast provided you a link to the City Clerk’s Document Management Search page to access “[a]ll Health Department and Board of Health Interlocal Agreements” and “[a]ll Telecommunications/Cable Television Advisory Board ordinances and By-laws.” He also provided a link to access the BOH Bylaws and a link to the Telecommunications/Cable Television Advisory Board’s webpage.<sup>1</sup>

You followed up with Mr. Tast on June 2, “requesting again a few items I did not find in your initial response,” including (1) confirmation that the 1998 interlocal agreement is the most current and is the copy referenced in the BOH Manual and October 11, 2022, Bylaws; (2) a copy of the BOH Manual referenced in the October 2024 BOH meeting agenda; and (3) “[i]nterpretations issued by the City Attorney’s office specifically related to [BOH] policy-making, which would include ‘policy development’ referenced in the Bylaws.” You followed up with Mr. Tast regarding your request by email on June 9, twice on June 11 due to some confusion as to the request at issue, and again on June 24.

According to Mr. Tast, he responded to your request by letter dated June 6, 2025, which was sent to you by U.S. Mail. A copy of this letter was provided to you on July 15. In response to the items listed in your June 2 email, Mr. Tast (1) confirmed that the 1998 interlocal agreement was the most current<sup>2</sup>; (2) provided a link to the Health Department’s webpage; and (3) denied you access to any interpretations issued by his office relating to BOH policymaking under the exception to disclosure in Neb. Rev. Stat. § 84-712.05(4). Mr. Tast further acknowledged in his July 15 email that the BOH Manual may be difficult to locate online, and attached a copy of the manual along with the June 6 letter.

## **DISCUSSION**

The City fulfilled your request on June 6, 2025, and supplemented its response by emailing you a copy of the BOH Manual on July 15. With respect to the withholding of “interpretations” from the City Attorney’s Office, please note that while the NPRS do provide access to public documents, they are not absolute, and they also provide for

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<sup>1</sup> On May 23, 2025, you submitted a new public records request to the City, not at issue here, that Mr. Tast fulfilled on June 6 via email.

<sup>2</sup> Mr. Tast noted in this respect that the Attorney General had formally opined that Section 84-712 of the NPRS does not require a public agency to answer questions.

exceptions to disclosure by express and special provisions. *Orr v. Knowles*, 215 Neb. 49, 337 N.W.2d 699 (1983). The City withheld these records under the exception in Neb. Rev. Stat. § 84-712.05(4), which pertains to “[r]ecords which represent the work product of an attorney and the public body involved which are related to preparation for litigation, labor negotiations, or claims made by or against the public body or which are confidential communications as defined in section 27-503.” We agree with the City that any interpretations on BOH policymaking from the City Attorney’s Office to members of the BOH would be confidential communications (and potentially work product) and may be withheld under § 84-712.05(4).

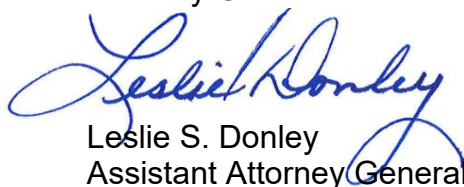
Finally, the NPRS allow Nebraska residents and other interested persons the right to examine public records in the possession of public agencies during normal agency business hours, to make memoranda and abstracts from those records, and to obtain copies of records in certain circumstances. In connection with our enforcement authority under the NPRS, we have consistently taken the position for a number of years that those statutes do not require public agencies to answer questions or to create records which do not otherwise exist to fulfill a request.<sup>3</sup> Instead, those statutes focus on access to and copies of specific records. Accordingly, public officials have no legal obligation to answer questions about records that may have been produced or accessed online in response to a request made under § 84-712.

### CONCLUSION

Since we have identified no violations of the NPRS pertaining to the City’s handling of your records request, no further action by this office is necessary and we are closing this file. If you disagree with our conclusion, you may wish to consider the other remedies available to you under the NPRS.

Sincerely,

MIKE HILGERS  
Attorney General



Leslie S. Donley  
Assistant Attorney General

c: Rick Tast (via email only)

49-3897-31

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<sup>3</sup> See Op. Att’y Gen. No. 94092 (November 22, 1994); Op. Att’y Gen. No. 94035 (May 11, 1994); Op. Att’y Gen. No. 87104 (October 27, 1987).