



STATE OF NEBRASKA
Office of the Attorney General

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ASSISTANT ATTORNEY GENERAL

September 3, 2025

Via email at: [REDACTED]

Brad Yerger
[REDACTED]

RE: *Public Records Matter Involving the City of Fremont*
Our File No. 20251100

Dear Mr. Yerger:

This letter is in response to your public records petition received by this office on August 19, 2025. You have asked us to review the partial denials of your July 28, 2025, and August 1, 2025, public records requests by the City of Fremont (City). In both requests, you were denied access to invoices and billing records for legal services performed by the Fremont City Attorney's Office, Adams & Sullivan, P.C., L.L.O. We have considered your petition, its attachments, and information provided to us by the Fremont City Attorney's Office, in accordance with the Nebraska Public Record Statutes (NPRS), Neb. Rev. Stat. §§ 84-712 through 84-712.09 (2024). We have completed our review, and our findings are detailed below.

RELEVANT FACTS

On July 28, 2025, you submitted a public records request to the City seeking documents connected to Open Meetings Act investigations including, "any billing invoices and billing records for legal fees charged to, and paid by, the City of Fremont regarding any Nebraska Open Meetings Act violation complaints/investigations dated on or after January 24, 2025." On August 1, 2025, the City provided you with approximately forty-three pages of responsive documents. However, it withheld documents "regarding attorney billing associated for specific items and communications between the City and its attorney regarding payment for services" under Neb. Rev. Stat. § 84-712.05(4).

Later that day, you submitted a request to the City seeking “all outgoing email communications sent by the City Administrator Jody Sanders to any member of the Fremont City Council between February 1, 2025, and March 31, 2025.” On August 5, 2025, the City provided you with approximately twenty-seven pages of responsive documents. Again, it withheld communications between the City and its attorney, including a February invoice for legal services, under Neb. Rev. Stat. § 84-712.05(4).

In your petition, you contend that the requested invoices and billing records were improperly withheld under the NRPS. Further, you note that the NRPS are to be liberally construed in favor of disclosure whenever any political subdivision’s expenditures of public funds are involved “in order that the residents of this state shall have the full right to know of and have full access to information on the public finances of the government and the public bodies and entities created to serve them.” Neb. Rev. Stat. § 84-712.01(3).

After reviewing your petition, the undersigned contacted Ms. Miller in the Fremont City Attorney’s Office. According to her, the withheld billing and invoice documents contain detailed descriptions of the work that attorneys performed for the City. Ms. Miller asserts that disclosing these descriptions would breach the attorney-client privilege and compromise the Fremont City Attorney’s professional and ethical duty to preserve confidentiality in connection with the City’s representation.

DISCUSSION

Neb. Rev. Stat. § 84-712.05(4) permits the lawful records custodian to withhold from the public “[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” unless the records are publicly disclosed in an open court, open administrative proceeding, or open meeting or disclosed by a public entity pursuant to its duties.

Our office has previously analyzed whether attorney fee statements may be withheld under Neb. Rev. Stat. § 84-712.05(4). In a 2008 disposition letter involving this issue and the Cass County Board of Commissioners, we wrote:

From our research concerning previous public records matters, it appears that there is case authority which generally supports the notion that itemized fee statements can constitute attorney work product and/or communications subject to the attorney/client privilege under certain circumstances. For example, with respect to attorney work product, some courts have indicated that itemized descriptions of the work which an attorney has performed for a client can offer insight into the attorney’s thought processes or legal theories for a particular case. On the other hand, we do not believe that a simple designation of hours worked along with a general description of the

time spent such as “review of discovery” or “preparation of trial brief” normally offers insights into an attorney’s thought processes or implicates a privileged communication with the attorney’s client.

Disposition Letter in *File No. 07-R-154; Engelkemier; Cass County Board; McCartney* (May 22, 2008) at 4-5.¹ Our determinations are “[g]uided by the Legislature’s requirement under § 84-712.01(3) that we liberally construe public records statutes in favor of disclosure in cases which concern the expenditure of public funds....” *State ex rel. BH Media Grp., Inc. v. Frakes*, 305 Neb. 780, 799, 943 N.W.2d 231, 246 (2020); *see also Aksamit Res. Mgmt. LLC v. Nebraska Pub. Power Dist.*, 299 Neb. 114, 122, 907 N.W.2d 301, 308 (2018) (“Because the Legislature has expressed a strong public policy for disclosure, an appellate court must narrowly construe statutory exemptions shielding public records from disclosure.”).

We understand that on August 25, 2025, Ms. Miller provided you with the invoice for legal fees regarding the City’s Open Meetings Act complaints dated on or after January 24, 2025. Further, you received the Consolidated Summary for February 2025 Legal Services Invoice, which Jody Sanders emailed to the City Council on March 4, 2025. On both documents, the City redacted descriptions of the legal work performed as attorney work product and/or communications subject to the attorney-client privilege under Neb. Rev. Stat § 84-712.05(4). The redacted documents disclose all other non-privileged information, including all expenditures of public funds.

¹ See also Disposition Letter in *File No. 2024-1209; Village of Cedar Creek; Andy Harpenau, Petitioner* (November 20, 2024); Disposition Letter in *File No. 2024-1025; Village of Brownsville; Shane Sailors, Petitioner* (February 20, 2024); Disposition Letter in *File No. 20-R-122; City of Gretna; Andy Harpenau, Petitioner* (August 17, 2020); Disposition Letter in *File No. 18-R-121; Blair Housing Authority; Petitioner Mark Welsch, GASP* (July 17, 2018).

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CONCLUSION

Since the City has now provided you with a response that complies with the NPRS, no further action by this office is necessary at this time, and we are closing this file. If you disagree with our conclusion, you may wish to discuss this matter with a private attorney to determine what additional remedies, if any, are available to you under the NPRS.

Sincerely,

MIKE HILGERS
Attorney General

A handwritten signature in blue ink, appearing to read "Ben Kinnison", is written over the typed name.

Ben Kinnison
Assistant Attorney General

c: Molly Miller (via email only)

37-024