



STATE OF NEBRASKA
Office of the Attorney General

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LESLIE S. DONLEY
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June 15, 2026

Via email to [REDACTED]
Seth Coates

RE: *Public Records Matter Involving the City of Fremont*
Our File No. 20261052

Dear Mr. Coates:

This letter is in response to your public records petition sent to and received by this office on May 29, 2026. You have requested the assistance of the Attorney General pertaining to your request for security video and audio records from the City of Fremont (City). The undersigned informed Assistant City Attorney Molly J. Miller about your petition on June 1, and discussed the records at issue with her at that time. We also requested certain documentation from her office earlier today. We considered your petition and Ms. Miller's information in accordance with the Nebraska Public Records Statutes (NPRS), Neb. Rev. Stat. §§ 84-712 to 84-712.09 (2024). Our findings in this matter are set forth below.

RELEVANT FACTS

Your petition concerns two public records requests to the City dated April 24 and May 6.¹ Your first request sought the following records:

[A]ll security video and audio recordings, of any kind, captured by any surveillance system, body-worn device, fixed camera, or other recording equipment, from all available cameras and angles, covering the following areas:

¹ Your May 6 "request" only challenged the records you received on April 29, and did not request public records *per se*.

--The exterior front entrance of the City Office Building located at 400 East Military Avenue, Fremont, Nebraska

--All publicly accessible interior spaces on the first floor of the same building, including but not limited to hallways, lobbies, waiting areas, service counters, and entry/exit points

This request includes all recordings regardless of format (digital or analog), including synchronized audio, as well as any associated metadata (timestamps, camera identifiers, logs, or indexing information).

Timeframe of request: April 15, 2026 from 1530 to 1630.

Ms. Miller timely responded to your request by letter dated April 29, stating that “[t]he videos requested are attached hereto.” However, she informed you “there is no audio for these recordings.” You immediately questioned the completeness of the production, indicating that some of the videos contained audio. In response to your questions seeking clarification, Ms. Miller stated that

[t]he videos were provided to you in the manner they are maintained by the City of Fremont. Nothing was redacted or omitted in their production. The videos viewed by our office did not produce any audio sound, therefore we advised you of what our review provided.

Email from M. Miller, April 29, 2026, at 3:45 p.m.

On May 6, you emailed City officials raising “two significant issues” about the City’s April 29 production, i.e., whether the videos contained audio and the purported completeness of the response. As to the audio issue, you requested answers to the following questions:

1. What methods, software, or procedures were used to review the video files for the presence of audio?
2. Were the files examined in their native or original format with all audio tracks enabled?
3. Were any audio tracks disabled, muted, separated, converted, redacted, or otherwise altered during the export or production process?

Regarding your allegation that the production was incomplete, you asked that the City confirm in writing that the April 29 response was a “full and complete response . . . and that no additional responsive video or audio records exist or were withheld.”

Ms. Miller responded to your May 6 correspondence on May 12, stating:

The City of Fremont has already provided to you all documents and videos in its possession that are responsive to your requests. The videos were produced in the manner in which they are maintained with no modifications made prior to production of the same.

Approximately one hour later, in an effort to “clearly understand the City’s position regarding [your] requests,” you asked Ms. Miller the following:

Are you confirming that the City Clerk and/or the City’s legal counsel personally reviewed both records requests, compared each request against the records produced by the City, and determined that every non-exempt public record responsive to both requests has been provided?

If that is not what the City is confirming, please clarify who made that determination and whether the City is maintaining that no additional responsive records exist, and that no responsive records have been withheld, omitted, redacted, altered, or otherwise excluded from production.

In response, Ms. Miller stated that “[w]hat the City has produced is what the City has in its possession responsive to the public records requests you have submitted.”

Your petition asserts, among several other things, that it “cannot be resolved by simply accepting the City’s unsupported assurance that it has produced all records in its possession.” You have also requested that we require the City to provide written explanations and responses to a litany of questions and requests, including “[c]onfirm[ing] whether the records already produced satisfy the full scope of my April 24, 2026 public records request[.]”

On June 1, Ms. Miller represented to the undersigned that the City provided all responsive records it had in its possession and that no video had been modified or altered in any way. She reiterated earlier today that the City advised the videos had not been modified.

Lastly, this office briefly viewed each video, finding that two of the twelve videos provided to you contained low-grade audio.

DISCUSSION

Neb. Rev. Stat. § 84-712(1) generally allows 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. Neb. Rev. Stat.

§ 84-712.03(1)(b) requires this office “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” In connection with our enforcement authority, it is our longstanding position that the NPRS do not require public agencies to answer questions or to create records which do not otherwise exist.² Instead, those statutes focus on access to and copies of *specific records*.

We acknowledge that Ms. Miller indicated in her April 29 letter that there was no audio for the records. However, she later clarified that “[t]he videos viewed by our office did not produce any audio sound, therefore we advised you of what our review provided.” As set forth above, Ms. Miller *repeatedly* represented to you that the City had produced all responsive records and no record was altered or modified.

Contrary to your assertion, this office can, and will, accept Ms. Miller’s assurance that all responsive records were provided to you on April 29. Ms. Miller represented to you, and confirmed to the undersigned on June 1 and earlier today, this fact. In this respect, we acknowledge the presumption that public officials operate in good faith.³ There is no basis to conclude, in light of the record, that you were denied access to public records.

CONCLUSION

Upon review of all material presented to this office by the parties, we have identified nothing to suggest that you were denied access to public records or that the City of Fremont failed to comply with the NPRS. To be clear, § 84-712 gives Nebraska residents and other interested persons the right to access public records. It does not require public bodies to respond to questions or explain why certain records do not exist. Also, the fact that you believe there are gaps in the recordings or missing audio, etc. does not constitute a denial of public records or a violation of the public records law.

² 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).

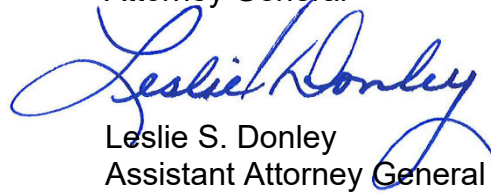
³ See *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (Neb. Ct. App. 2009) (“In the absence of evidence to the contrary, it may be presumed that public officers faithfully performed their official duties and that absent evidence showing misconduct or disregard of law, the regularity of official acts is presumed.”).

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Since we have identified no violations of the NPRS with respect to this matter, no further action by this office is necessary and we are closing this file. If you disagree with our analysis, you may wish to discuss this matter with your private attorney to determine what additional remedies, if any, might be available to you under the NPRS.

Sincerely,

MIKE HILGERS
Attorney General



Leslie S. Donley
Assistant Attorney General

c: Molly J. Miller (via email only)

49-4182-31