



STATE OF NEBRASKA
Office of the Attorney General

2115 STATE CAPITOL BUILDING
LINCOLN, NE 68509-8920
(402) 471-2682
TDD (402) 471-2682
FAX (402) 471-3297 or (402) 471-4725

MIKE HILGERS
ATTORNEY GENERAL

RYAN D. BAKER
ASSISTANT ATTORNEY GENERAL

July 30, 2026

Via email: [REDACTED]
Patti Cordova

RE: *Public Records Matter Involving Douglas County and Subsidiary
Departments*
Our File No. 20261068

Dear Ms. Cordova:

This letter is in response to your petition received by this office on July 14, 2026, in which you sought our review of your public records request submitted to various Douglas County departments on June 22, 2026, seeking records and documentation relating to your resident subdivision and numerous parcels throughout Douglas County. At our request, on July 15 you supplemented your petition with the documentation necessary for our review. We reviewed your petition in accordance with the Nebraska Public Records Statutes ("NPRS"), Neb. Rev. Stat. §§ 84-712 through 84-712.09 (2024), as amended 2026 Neb. Laws LB 525 and LB 1096, and our conclusions are set forth below.

FACTS

Our understanding of the facts in this matter is based on your petition to our office, the materials attached thereto, and the undersigned's communications with Deputy County Attorney Tim Coffey. On June 22, 2026, you submitted public records requests entitled "MASTER PUBLIC RECORDS REQUEST & LITIGATION HOLD" to various Douglas County departments and officials. Per our review, these records requests are identical and stated in pertinent part:

I am requesting **all records**, in any form, relating to:

- 17015 Abigail Street
- Lot 9, Newport Vista
- **All** homes in Newport Vista (all phases)
- **All** Regency/Pacesetter homes in Douglas County
- **All** engineering, inspection, drainage, grading, soil, and foundation records
- **All** communications between any builder, engineer, developer, inspector, or agency

This request includes **all records created, received, stored, transmitted, or maintained** by your office, your employees, your contractors, or any third party acting on your behalf.

...

You must search **all systems reasonably likely to contain responsive records**, including:

- Work and personal email accounts used for public business
- Work and personal phones used for public business
- Tablets, laptops, shared drives, cloud storage
- Inspection software, engineering platforms, contractor portals
- Voicemail systems, text messaging platforms

This request includes **all formats**, including emails, texts, voicemails, photos, videos, PDFs, drafts, handwritten notes, field notes, internal memos, spreadsheets, CAD files, GIS files, and metadata.

...

This request includes all records created or held by:

- Senegal (foundation contractor)
- TD2 Engineering
- Century Development
- Any excavation contractor
- Any inspector or engineer

...

CATEGORIES OF RECORDS REQUESTED

1. All communications (emails, texts, voicemails, memos, notes, photos, videos)

Between your office and:

Regency/Pacesetter, TD2, Century Development, Senegal, excavation contractors, Douglas County, City of Bennington, NIRMA, or any inspector/engineer.

2. Engineering & geotechnical records

Soil reports, compaction tests, groundwater observations, springs, abandoned wells, field notes, site visit logs, drafts, revisions, hydrology studies, drainage plans, grading plans, subdivision engineering approvals.

3. Foundation & excavation records

Water pumping, soil collapse, saturated soils, groundwater infiltration, springs, foundation preparation, concrete pour logs, daily logs, photos, videos, safety reports, delay notices.

4. Inspection & COO records (all homes)

Failed inspections, missing inspections, reinspections, inspection notes, photos, internal communications, COO issuance, conditional COOs, revoked COOs.

5. Subdivision-wide records

Drainage complaints, grading violations, soil complaints, water complaints, foundation complaints, engineering concerns, "problem lot" lists, abandoned wells, springs, groundwater issues, SID engineering documents.

6. COO & Inspection status – subdivision-wide and countywide

For:

- All homes in Newport Vista
- All Regency/Pacesetter homes in Douglas County
- All buildings in Newport Vista

Include:

Address, lot number, builder, COO date, inspection history, deficiencies, reinspections required/missing, exceptions granted, deviations from procedure.

(Emphasis and formatting in original.) Your request also included a litigation hold advising Douglas County to "preserve all responsive records" in various forms and formats.

On June 26, 2026, Mr. Coffey responded to your records requests via letter. This letter in part

request[ed] clarification as it pertains to the scope of your request. As it is phrased currently, your request does not identify the lawful custodian it seeks records from or specifically define searchable terms (e.g., keywords, phrases, or agency), email addresses, or a date range for records or communications sought. A recipient of a request is not required to identify other lawful custodians of records and conduct searches for said records. The requested clarification will better assist the lawful custodian you identify to begin the search for records. Douglas County Nebraska has over 20 departments, each keeping their own records. Records requests must be directed to the records custodian of the specific department whose records you seek. Neb. Rev. Stat. § 84-712(4). Please identify the county department you would like to review your records request and supply the additional information requested.

Please be advised that, due to the extensive time and resources necessitated by voluminous requests, this office may commence assessing charges for Public Records Requests in accordance with Neb. Rev. Stat. § 84-712(3)(c) for Nebraska residents. So that we can prepare a cost estimate, please provide the additional requested information (department to review your request, etc.). Please respond no later than July 3, 2026.

(Emphasis in original; footnote omitted). Mr. Coffey further stated that you could modify or prioritize your request.

On June 28, 2026, you responded to Mr. Coffey's letter and clarified that you were prioritizing Douglas County Environmental Services, Douglas County Public Works, Douglas County Building Department, Douglas County Administration, Douglas County Commissioner's Office, and Douglas County Attorney's Office "for the first phase of the search." You further requested Mr. Coffey to "[i]dentify the lawful custodian(s) for each category listed in [your] original request," including "engineering records," "grading/drainage records," "inspection/COO records," "subdivision approval records," "contractor submissions (TD2, Senegal, Century, etc.)," "internal communications," and "inter-agency communications." You also asked for a "written cost estimate, broken down by department, identifying the hourly rate, number of hours anticipated, and any copying or retrieval fees."

Mr. Coffey responded via letter on July 6, 2026, in which he acknowledged that your June 28 letter "prioritized some departments you are seeking records from, but did not provide names, date ranges, search terms, etc., that were requested." Mr. Coffey identified Douglas County Environmental Services as the prioritized department and

thereafter provided a cost estimate concerning the parameters of your records request and an accompanying explanation. Mr. Coffey advised:

To give an idea of the voluminous nature of this request [as described above], a cost estimate has been calculated for "All Regency/Pacesetter homes in Douglas County." Douglas County Environmental Services is not able to search by builder, such as Regency/Pacesetter. To begin to identify "all records in any form relating to . . . **All** Regency/Pacesetter homes in Douglas County" will require that every Douglas County Parcel be searched to determine what records, if any, held by Environmental Services are related to Regency/Pacesetter homes. There are roughly 210,000 parcels in Douglas County. Accounting for at least five minutes to search each parcel would amount to 17,500 hours (8.4 years of fulltime work (2080 hours per year)) to identify these records. Laura Dietrich, Environmental Services Planning and Zoning Coordinator, will conduct the search. Her current hourly rate is \$42.21. Applied to only this portion of your request, the cost estimate is roughly \$738,675.00 to simply identify the records you seek. Ms. Dietrich is not required to suspend her work on other matters to conduct this search, therefore the timeline to conduct this search is unknown at this time. No work will be conducted on this records request without receiving the stated cost estimate. This estimate does not encompass other voluminous portions of your request.

(Emphasis in original.) Mr. Coffey then stated that you could further modify or prioritize your records request.

You then sent a follow-up letter on July 7, 2026, in which you directed the six departments identified in your June 28 letter to "search and produce" the requested records. In addition, you further advised that TD2 Engineering, Inc. "confirmed via email" that it submitted specified documents to the City of Bennington, Douglas County Public Works, Papio-Missouri River Natural Resources District, Douglas County Health Department, Nebraska Department of Water, Energy, and Environment, and Sanitary and Improvement District No. 594, as well as other private entities. You then requested Mr. Coffey to "confirm the custodian(s)" for various categories of records described in prior correspondence and again advised of the litigation hold. You finally challenged the estimate provided by Mr. Coffey as unlawful.

Mr. Coffey issued a subsequent response to your July 7 letter on July 13, 2026. He indicated that your July 7 letter "did not change the cost estimate as it did not narrow or clarify your request as requested" and again advised that you could modify or prioritize your request further.

The undersigned contacted Mr. Coffey on July 24, 2026, and requested additional information regarding your petition. With respect to the cost estimate, Mr. Coffey stated that it was "based upon the number of residential parcels in Douglas County, excluding condominiums and trailers, which is roughly 210,000" and the need to search each parcel

file individually to determine whether it fell within the umbrella of your request for “all records, in any form, relating to . . . All Regency/Pacesetter homes in Douglas County” and contained responsive records. Mr. Coffey further asserted that “Douglas County is not required to direct a records requester to the lawful custodian” of the records sought and that the NPRS do not require Douglas County to begin “rolling production” of records in response to a request.

DISCUSSION

Your petition to our office raises four claims concerning Douglas County’s responses to your public records request. Specifically, you claim that Douglas County: (1) issued an unlawful cost estimate in its July 6 letter; (2) improperly refused to identify records custodians and direct the custodians to begin searching for responsive records; (3) improperly refused to begin rolling production; and (4) refused to acknowledge the litigation hold.

At the outset, our office is neither charged nor authorized to enforce litigation holds or preservation letters issued against Douglas County and its departments. Such matters are outside our office’s enforcement authority under the NPRS. We therefore do not address that claim further and turn now to your remaining claims.

1. Douglas County Cost Estimate

The NPRS generally allow Nebraska citizens 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 public records in certain circumstances. Pursuant to § 84-712(3)(b), records custodians are permitted to assess a fee to produce copies of public records:

(b) Except as otherwise provided by statute, the public body, public entity, or public official which is the custodian of a public record may charge a fee for providing copies of such public record pursuant to subdivision (1)(b) of this section, which fee shall not exceed the actual added cost of making the copies available. For purposes of this subdivision, . . . (iii) **for electronic data, the actual added cost of making the copies available shall include the reasonably calculated actual added cost of the computer run time, any necessary analysis and programming by the public body, public entity, public official, or third-party information technology services company contracted to provide computer services to the public body, public entity, or public official, and the production of the report in the form furnished to the requester.**

(Emphasis supplied.) Section 84-712(3)(c) further provides:

For residents of Nebraska, the actual added cost used as the basis for the calculation of a fee for records shall not include any charge for the existing salary or pay obligation to the public officers or employees with respect to the first eight cumulative hours of searching, identifying, physically redacting, or copying. **A special service charge reflecting the calculated labor cost may be included in the fee for time required in excess of eight cumulative hours, since that large of a request may cause some delay or disruption of the other responsibilities of the custodian's office**, except that the fee for records shall not include any charge for the services of an attorney or any other person to review the requested public records seeking a legal basis to withhold the public records from the public. No special service charge or fee shall be charged for copies of blank forms or pages that have all meaningful information redacted.

(Emphasis supplied.) "If copies requested in accordance with [§ 84-712(1)(b)] are estimated by the custodian of such public records to cost more than fifty dollars, the custodian may require the requester to furnish a deposit prior to fulfilling such request." § 84-712(3)(g).

Under the NPRS, our office is in part charged to "determine . . . whether the fees estimated or charged by the custodian are actual added costs or special service charges as provided under section 84-712." Your petition claims that the estimate of \$738,675.00 provided by Mr. Coffey was unlawful.

We first note your petition directs our attention to two cases for propositions of law regarding fees assessed under the NPRS: *State ex rel. BH Media Group v. Frakes* and *Freeman v. City of Omaha*. For separate reasons, neither citation is relevant to our resolution of this matter. First, in *State ex rel. BH Media Group v. Frakes*, 305 Neb. 780, 943 N.W.2d 231 (2020), the Nebraska Supreme Court addressed whether the Nebraska Department of Correctional Services could properly withhold the records sought by the relators in their mandamus action and whether the district court's award of attorney fees to the relators was proper. Second, *Freeman v. City of Omaha*, 282 Neb. 537 (2011), is not a case found in Nebraska case law. The citation of "282 Neb. 537" belongs to *Dresser v. Union Pacific R. Co.*, 282 Neb. 537, 809 N.W.2d 713 (2011), and we have located neither any case with the caption "*Freeman v. City of Omaha*" nor one that stands for the proposition asserted in your petition.

We have carefully considered applicable Nebraska law, the explanation underlying the fee estimate provided by Mr. Coffey, and the corresponding scope of your records requests. There is no question that the estimate is an immense sum of money. However, the single request for "all records in any form relating to . . . **All** Regency/Pacesetter homes in Douglas County," even when limited to Douglas County Environmental Services, is an exceptionally voluminous request on its own. Mr. Coffey stated that it would be necessary to search and review individual residential parcel files, approximately 210,000 in total, for responsive records, as "Douglas County Environmental Services is

not able to search by builder.”¹ Given these circumstances and the expansive scope of your requests, the estimated hours and rate provided by Mr. Coffey were neither outrageous nor excessive. Consequently, we find that the fee estimate is permissible under the parameters of § 84-712(3), and Douglas County may properly request a deposit prior to beginning work on your request in accord with § 84-712(3)(g). You may certainly choose to further narrow or simplify the scope of your requests as permitted under § 84-712(4).

2. Obligation to Identify Records Custodian and for Rolling Records Production

You next claim that Douglas County has “refuse[d] to acknowledge” the custodians identified in your request, “insist[ing] [that you] provide employee-level search terms,” while improperly refusing to begin “rolling production” of records responsive to your request. We address these claims in turn.

First, with respect to your claim regarding the identification of the lawful records custodian, we find no impropriety by Douglas County. Per your letter dated June 28, 2026, you identified six Douglas County departments as priorities for your records request. This letter was followed by Mr. Coffey’s July 6 response, in which he acknowledged this priority list and reiterated his request that you “provide names/email addresses to be searched, date ranges for records sought, etc.” to assist in narrowing the scope of the search to be conducted. When viewed in the context of the cost estimate provided by Mr. Coffey, this was clearly not an attempt to circumvent your records request or to otherwise run afoul of the NPRS. Rather, this was an effort to save time and costs by tightening the scope of an incredibly broad records request. In this regard, Douglas County has not violated any provision of the NPRS.

Finally, turning to the question of rolling production in response to records requests received, the NPRS do not require rolling production of records once identified as responsive. Further, as discussed previously, it is permissible for a public body to require a deposit before undertaking efforts to fulfill a records request if the costs involved would exceed \$50. See § 84-712(3)(g). Having found the fee estimate to be reasonable in light of the breadth of your records request, Douglas County was not required to begin fulfilling your request in absence of the deposit.

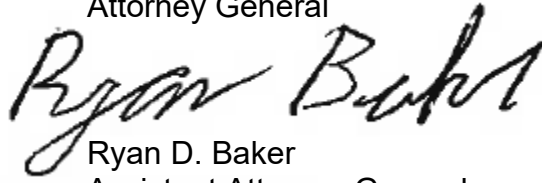
¹ Under Nebraska law, it is generally presumed that public bodies and officers carry out their duties in good faith. See *Wolf v. Grubbs*, 17 Neb. App. 292, 310, 759 N.W.2d 499, 518 (2009) (observing that, in a case involving the Open Meetings Act, “[i]n the absence of evidence to the contrary, it may be presumed that public officers faithfully performed their official duties”). We do not have cause to believe that Mr. Coffey has acted in bad faith in construing your request or outlining the records-searching capabilities of Douglas County departments.

CONCLUSION

For the reasons set forth above, we conclude that Douglas County did not violate any provision of the NPRS in responding to your requests for public records. As a result, no further action by this office is warranted, and we are closing this file. If you disagree with our findings set out in this letter, you may wish to consult with an attorney to determine what, if any, additional remedies may be available to you under the NPRS.

Sincerely,

MIKE HILGERS
Attorney General



Ryan D. Baker
Assistant Attorney General

c: Tim Coffey (via email only)

55-134