



STATE OF NORTH DAKOTA
OFFICE OF ATTORNEY GENERAL

www.attorneygeneral.nd.gov

(701) 328-2210

Drew H. Wrigley
ATTORNEY GENERAL

OPEN RECORDS AND MEETINGS OPINION
2025-O-08

DATE ISSUED: March 7, 2025

ISSUED TO: City of Mandan

CITIZEN'S REQUEST FOR OPINION

S. Paul Jordan requested an opinion from this office under N.D.C.C. § 44-04-21.1 asking whether the City of Mandan (City) violated N.D.C.C. § 44-04-18 by failing to respond to a records request within a reasonable time.

FACTS PRESENTED

On October 9, 2022, S. Paul Jordan submitted a records request via the City's "Report a Concern" website asking for a copy of a "pet registration record and [for the City to] provide notification if that record does not exist."¹ An automated response was sent from the website acknowledging receipt of the concern, and the request was automatically forwarded to the Code Enforcement Officer per system settings.² The Code Enforcement Officer does not recall receiving a copy of the request and suspects it may have been unintentionally deleted.³ On November 22, 2022, Mr. Jordan emailed this office seeking an opinion, asking whether the City unreasonably delayed its response to the records request.⁴ Upon hearing from our office, the City responded to Mr. Jordan on December 30, 2022, informing him that the requested records did not exist or were not records of the City.⁵

ISSUE

Whether the City of Mandan responded to a records request within a reasonable time.

¹ Email from S. Paul Jordan, to Off. of Att'y Gen. (Nov. 22, 2022, 1:39 PM); Letter from Jim Neubauer, City Adm'r, City of Mandan, to Annique Lockard, Assistant Att'y Gen., Off. of Att'y Gen. (Jan. 6, 2022).

² Letter from Jim Neubauer, City Adm'r, City of Mandan, to Annique Lockard, Assistant Att'y Gen., Off. of Att'y Gen. (Jan. 6, 2022).

³ *Id.*

⁴ Email from S. Paul Jordan, to Off. of Att'y Gen. (Nov. 22, 2022, 1:39 PM).

⁵ Letter from Jim Neubauer, City Adm'r, City of Mandan, to Annique Lockard, Assistant Att'y Gen., Off. of Att'y Gen. (Jan. 6, 2022).

ANALYSIS

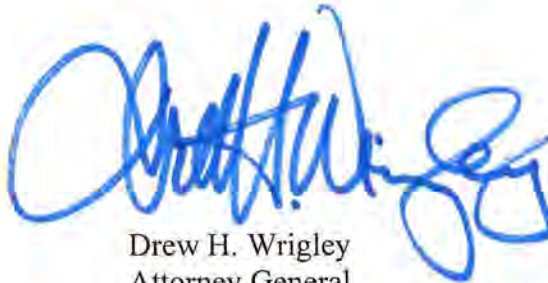
An open records violation occurs when “a person’s right to review or receive a copy of a record that is not exempt or confidential is denied or unreasonably delayed.”⁶ When determining whether a delay in responding to a request for information is reasonable, this office will evaluate the matter in terms of hours and days, not weeks.⁷ The determination of reasonableness depends on the given facts, and even unintentional delays may sometimes be deemed unreasonable. In an instance similar to this one, this office stated that “although unintentional, it took [the entity] two months to respond that no records existed, which is an unreasonable delay.”⁸ The City has addressed the oversight by adding an additional recipient to the “Report a Concern” website and has provided a response to the records request from Mr. Jordan,⁹ but the fact remains: a failure to respond to a records request for over two months, however unintentional, is an unreasonable delay.

CONCLUSION

The City of Mandan violated open records laws when it failed to respond to a records request within a reasonable time.

STEPS NEEDED TO REMEDY VIOLATION

A response stating the requested records did not exist has been provided to Mr. Jordan, therefore, no further action is required.



Drew H. Wrigley
Attorney General

MEO/AML/mjh

cc: S. Paul Jordan (via e-mail)

⁶ N.D.C.C. § 44-04-18(8).

⁷ N.D.A.G. 2003-O-09; *citing* N.D.A.G. 98-O-22. *See also* N.D.A.G. 2004-O-20 (“When determining whether a delay in responding to a request for information is reasonable, this office looks at hours and days, not weeks.” *Citing* N.D.A.G. 2003-O-09).

⁸ N.D.A.G. 2019-O-14.

⁹ Letter from Jim Neubauer, City Adm’r, City of Mandan, to Annique Lockard, Asst. Att’y Gen., Att’y Gen.’s Office (Jan. 6, 2022).