

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

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**DOUGLAS J. PETERSON**  
ATTORNEY GENERAL

**NATALEE J. HART**  
ASSISTANT ATTORNEY GENERAL

July 24, 2019

Frederic Laquer  
[REDACTED]

RE: *File No. 19-R-120; Douglas County Assessor; Frederic Laquer, Petitioner*

Dear Mr. Laquer:

We are writing in response to correspondence received by this office in which you petitioned for our review of the response to your request for certain public records belonging to the Douglas County Assessor's Office ("Assessor") under the Nebraska Public Records Statutes, Neb. Rev. Stat. §§ 84-712 through 84-712.09 (Reissue 2014, Cum. Supp. 2018) ("NPRS"). As is our normal practice with such requests, we contacted the public body named in the correspondence. In this case, we provided the petition to Michael Goodwillie and Brian Grimm, employees of the Assessor's office who were named in your petition. We subsequently spoke to Mr. Goodwillie on the phone regarding your petition. We have now completed our analysis of this matter and our findings are set forth below.

### RELEVANT FACTS

Our understanding of the facts in this matter is based on your petition. On or about June 6, 2019, you sent a lengthy public records request to the Assessor, requesting a number of categories of documents maintained by the Assessor related to property valuation. As much of your request is not germane to your petition, we will not reproduce it herein. It appears you had a number of phone and email exchanges with Mr. Goodwillie and Mr. Grimm regarding your request for records and the valuation of your property. One of these exchanges was on June 17, 2019 in which Mr. Goodwillie answered a number of questions posed in your public records request, referred you to the website of the Department of Revenue for information which could be gathered from that agency relating to your request, and informed you that your request for records would be fulfilled on approximately June 24, 2019, following the payment of a \$50.00 fee<sup>1</sup> for the production

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<sup>1</sup> Your petition states that you "do not believe that the \$50.00 fee they charged was appropriate. If I receive the information identified that I had requested, I will not contest that charge (unless your office ultimately views the charge as inappropriate)." We do not believe the fee charged to be part of your petition. However, in the interest of a full disposition of your complaints, given the large amount of information

of the records. You agreed to the \$50.00 fee and on June 25, 2019, the Assessor provided you with records responsive to your request.

On July 2, 2019, you sent an email to the Assessor, stating that part of your records request had not been fulfilled and requesting the following:

- A. In item 3 of my request, I asked for you to supply a table of abbreviations and definitions for all model terms reported.  
In documents 3A.xlsx and 3B.xlsx, the column headers in row 1 need to be defined, and while some may be obvious (ANALYSISVARIABLE), some of the others are less obvious and I would rather not assume incorrectly. If not included in the definition, please report the associated units (dollars, square feet, dollars per square foot, dimensionless, or other).
- B. Similarly the Analysis Variables in many cases are self-evident, but again others are more cryptic, so those too need to be defined.

Following this email, you petitioned our office for review of what you believe is a denial of access to public records for the items listed in your July 2, 2019 e-mail. We have reviewed your petition, and have reached the conclusions set forth below.

As an initial matter, your petition references the Federal Freedom of Information Act. The Freedom of Information Act, or FOIA, is a federal law, codified at 5 USC § 552, which generally provides that any person has the right to request access to *federal* agency records and information. You are seeking information from the County Assessor, an agency of Douglas County, Nebraska. FOIA does not apply to county agencies. The NPRS govern access to records of and belonging to the County Assessor and provides this office certain investigatory powers. Our office has no authority under FOIA. Consequently, our analysis will be related only to the NPRS and not to FOIA.

## DISCUSSION

The NPRS generally allow interested persons the right to examine public records in the possession of public agencies in Nebraska during normal agency business hours, to make memoranda and abstracts from those records, and to obtain copies of records in certain circumstances. "Except when any other statute expressly provides that particular information or records shall not be made public, public records shall include all records and documents, regardless of physical form, of or belonging to this state, any county, city, village, political subdivision, or tax-supported district in this state, or any agency, branch, department, board, bureau, commission, council, subunit, or committee of any of the foregoing. Data which is a public record in its original form shall remain a public record when maintained in computer files." Neb. Rev. Stat. § 84-712.01(1). Every record "of or belonging to" a public body is a public record which individuals may obtain a copy of

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requested by you and the time which to us appears to have been invested by the Assessor's Office in fulfilling that request, a fee of \$50.00 is not unreasonable.

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unless the custodian of the record can point to a specific statute which allows the record to be kept confidential. Neb. Rev. Stat. §§ 84-712, 84-712.01 and 84-712.05.

Our office has consistently stated that Neb. Rev. Stat. § 84-712 does not require a public agency to review documents and create abstracts or other lists, to answer questions, or to create documents which do not otherwise exist. 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). This means the requestor is entitled only to make a request for specific documents or records, and the custodian is required only to provide documents or records responsive to the records request, if they exist. The requestor is not entitled to ask, and the custodian is not required to answer, any questions in the request. The custodian is also not required to create documents in order to respond to a public records request.

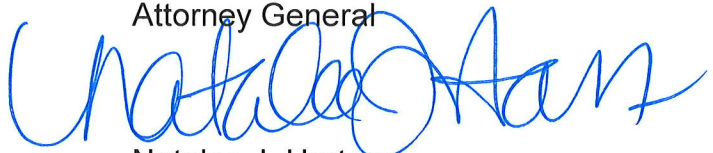
Your July 2, 2019 e-mail follow-up to the Assessor, in part, asks questions of the Assessor’s Office. They are under no obligation to provide answers to your questions, including descriptions of spreadsheet column headings or to “report the associated units” or define variables found in the spreadsheet, if such units or definitions do not already appear on the document produced. It is our understanding that the Assessor would also be required to create a new document in response to your request for “a table of abbreviations and definitions for all model terms.” They are not required to do so. Our review of your petition indicates that the Assessor provided all documents of or belonging to that office in response to your request for records; it does not maintain documents responsive to your remaining requests. Consequently, you have not been denied access to public records.

### CONCLUSION

For the reasons explained above, we conclude that the Assessor has not violated the NPRS with respect to your request for records, and that no further action by this office is warranted. Accordingly, we are closing this file. If you disagree with the analysis we have set out above, you may wish to determine what additional remedies may be available to you under the NPRS.

Sincerely,

DOUGLAS J. PETERSON  
Attorney General



Natalee J. Hart  
Assistant Attorney General

cc: Michael Goodwillie