

**OPEN RECORDS AND MEETINGS OPINION  
2018-O-02**

DATE ISSUED: February 9, 2018

ISSUED TO: Mandan Progress Organization

**CITIZEN'S REQUEST FOR OPINION**

This office received a request for an opinion under N.D.C.C. § 44-04-21.1 from S. Paul Jordan asking whether the Mandan Progress Organization violated N.D.C.C. § 44-04-18 with its estimate of charges associated with a records request.

**FACTS PRESENTED**

On December 21, 2017, S. Paul Jordan requested, from the Mandan Progress Organization (MPO), “the necessary financial records that shows funding the City provided the MPO directly and indirectly to the MPO for the years 2013, 2014, 2015, 2016, and 2017. This includes what City funds were spent on, which may have include [sic] paying the salary and benefits for anyone with the MPO.”<sup>1</sup> On December 26, 2017, the MPO sent an invoice to Mr. Jordan, estimating a cost of \$50 to respond to the records request.<sup>2</sup>

**ISSUE**

Whether the Mandan Progress Organization’s estimate of charges complies with N.D.C.C. § 44-04-18.

**ANALYSIS**

Section 44-04-18, N.D.C.C., allows a public entity to “require payment before locating, redacting, making, or mailing” a copy of requested records. A public entity is allowed to charge twenty-five dollars per hour, excluding the initial hour, for locating records.<sup>3</sup> The invoice and email sent to Mr. Jordan stated that it would take approximately three hours

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<sup>1</sup> Email from S. Paul Jordan to Del Wetsch, Exec. Dir., Mandan Progress Org. (Dec. 21, 2016, 3:01 p.m.).

<sup>2</sup> Invoice 2151 from Mandan Progress Org., to S. Paul Jordan (Dec. 26. 2017).

<sup>3</sup> N.D.C.C. § 44-04-18(2).

to compile the records; with one hour free, fifty dollars was billed.<sup>4</sup> The MPO explains that the invoice was “an estimate of the time needed to locate the records [Mr. Jordan] has requested.”<sup>5</sup> The MPO has the statutory authority to estimate charges associated with responding to a request for records and MPO’s estimate was based on the legally allowable charges of N.D.C.C. § 44-04-18(2).

### CONCLUSION

The Mandan Progress Organization’s estimate for responding to a records request was based on legally allowable charges authorized by N.D.C.C. § 44-04-18.

Wayne Stenehjem  
Attorney General

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cc: S. Paul Jordan

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<sup>4</sup> Invoice 2151 from Mandan Progress Org. to S. Paul Jordan (Dec. 26, 2017); email from Kristin Haug, Mandan Progress Org., to S. Paul Jordan (Dec. 26, 2017, 4:17 pm).

<sup>5</sup> Letter from Del Wetsch, Exec. Dir., Mandan Progress Org., to Sandra L DePountis, Asst. Att’y Gen. (received Feb. 1, 2018).