

**OPEN RECORDS AND MEETINGS SUMMARY OPINION
2018-O-22**

DATE ISSUED: December 10, 2018

ISSUED TO: Morton-Mandan Public Library Board

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 Morton-Mandan Public Library Board violated N.D.C.C. § 44-04-18 by unreasonably delaying access to records.

FACTS PRESENTED

On May 29, 2018, S. Paul Jordan sent a letter to the Morton Mandan Public Library Board of Trustees requesting several records, including:

I request a copy of a record that lists the email addresses of the Board that is used to send emails to the Board and this may include an email that was sent providing notifications related to meetings of the Board.¹

The Board provided a response to Mr. Jordan's letter on June 11, 2018, but mistakenly failed to provide a copy of the record showing an email address.² Recognizing its mistake, the Board provided the requested record after follow up from this office on July 12, 2018.³

ISSUE

Whether the Board provided a response to a record request within a reasonable time.

¹ Email from S. Paul Jordan to Ashley Kelsch, Sec'y, Morton Mandan Pub. Library Bd. of Tr.'s (May 29, 2018, 2:47 PM).

² Letter from Ashley Kelsch, Sec'y, Morton Mandan Pub. Library Bd. of Tr.'s, to Att'y Gen.'s Office (July 12, 2018).

³ Email from Ashley Kelsch, Sec'y, Morton Mandan Pub. Library Bd. of Tr.'s, to Att'y Gen.'s Office (July 16, 2018, 1:25 PM).

ANALYSIS

When a public entity receives a request for records, it must, within a reasonable time, either provide the records or explain why the records are not being provided.⁴ Whether records have been produced within a reasonable time will depend on the facts of a given situation.⁵ Numerous past opinions outline situations in which a delay may be appropriate.⁶

The Board explained that it is inundated with messages and information from Mr. Jordan and that it was a simple mistake in not responding to the request for email records.⁷

CONCLUSION

Notwithstanding the fact that it appears there was no intentional delay in this case, the Board failed to provide a response to a record request within a reasonable time.

STEPS NEEDED TO REMEDY VIOLATION

Because the record was provided to Mr. Jordan, no further action is required.

Wayne Stenehjem
Attorney General

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cc: S. Paul Jordan

⁴ N.D.C.C. § 44-04-18.

⁵ N.D.A.G. 2017-O-06.

⁶ N.D.A.G. 2017-O-06; N.D.A.G. 2014-O-25; N.D.A.G. 2014-O-21; N.D.A.G. 2014-O-20; N.D.A.G. 2014-O-06; N.D.A.G. 2013-O-17; N.D.A.G. 2013-O-15; N.D.A.G. 2012-O-07; N.D.A.G. 2010-O-04; N.D.A.G. 2008-O-08; N.D.A.G. 2004-O-05; N.D.A.G. 2003-O-21; N.D.A.G. 98-O-20; N.D.A.G. 98-O-04.

⁷ Letter from Ashley Kelsch, Sec'y, Morton Mandan Pub. Library Bd. of Tr.'s, to Att'y Gen.'s Office (July 12, 2018). This office previously recognized entities within Mandan dealing with this "prolific and persistent requestor" who inundates public entities with numerous records requests. N.D.A.G. 2017-O-10; N.D.A.G. 2014-O-25. See also N.D.A.G. 2014-O-22; N.D.A.G. 2014-O-21; N.D.A.G. 2014-O-17.