

N.D.A.G. Letter to Swanson (Aug. 13, 1991)

August 13, 1991

Mr. Howard Swanson
Office of City Attorney
P.O. Box 1950
Grand Forks ND 58206

Dear Mr. Swanson:

Thank you for your August 2, 1991, letter asking if a municipality may decline to provide copies of public records when multiple requests are made by one individual. You also ask whether a municipality may charge a reasonable fee for the costs of retrieving and copying such records.

North Dakota's open records law states that unless otherwise provided by law all records of government bodies are public records which are open and accessible for inspection during reasonable office hours. N.D. Const. art. XI, § 6; N.D.C.C. § 44-04-18. Although the law does not expressly require that government bodies furnish copies upon request, this office has inferred that obligation. Letter from Attorney General Nicholas J. Spaeth to Senator Steven W. Tomac (July 17, 1991); 1989 N.D. Op. Att'y Gen. 7. Copies of these opinions are enclosed for your information. In my opinion, public officials should make copies available upon request. As I noted in an earlier opinion, this conclusion follows the rule in other jurisdictions that the right to inspect public records commonly carries with it the right to make copies of those records. 1989 N.D. Op. Att'y Gen. 7.

The open records law does not allow exceptions when it is inconvenient or costly to comply with a request. Nor does the law permit restrictions on access to public records because someone has frequently exercised the right to inspect and copy those records. Accordingly, it is my opinion that public officials should make copies of public records available upon request and that a request may not be denied because it involves a substantial number of copies or because the same individual makes multiple requests.

In a previous opinion I said that although a government may not assess a charge for access to public records it may charge a reasonable fee to cover actual copying costs. Id. It is my opinion that payment of this fee may be required upon furnishing of the copies and an advance deposit may be required when a substantial number of copies is requested.

I hope this information is helpful to you.

Sincerely,

Nicholas J. Spaeth

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Enclosures