



Advisory Opinion 08-002

This is an opinion of the Commissioner of Administration issued pursuant to Minnesota Statutes, section 13.072 (2007). It is based on the facts and information available to the Commissioner as described below. All public data the Commissioner relied upon to issue this opinion are available for public inspection and copying at the office of the Information Policy Analysis Division (IPAD), unless the data have been disposed of in compliance with the state Records Management Act.

Facts and Procedural History:

On January 29, 2008, IPAD received a letter dated January 18, 2008, from X. In the letter, X asked the Commissioner to issue an advisory opinion regarding his/her access to certain data from the Saint Paul Public Housing Authority (PHA).

IPAD, on behalf of the Commissioner, wrote to Jon Gutzman, Executive Director of the PHA, in response to X's request. The purposes of this letter, dated February 6, 2008, were to inform him of X's request and to ask him to provide information or support for the PHA's position. On February 15, 2008, IPAD received a response, dated February 14, 2008, from Laura Pietan, Assistant City Attorney and Attorney for the PHA.

A summary of the facts as provided by X is as follows. In his/her opinion request, X wrote:

I live in Public Housing...I wanted to file a grievance because of the complaint of unauthorized guests and noise disturbances...I believe I am entitled to have the complaining tenants [sic] complaint in their own words (a copy of the actual complaint in writing) excluding information I am not entitled to have.

In a letter to the PHA, X asked the PHA to provide "documentation of the name of the complaining resident, the dates and times said resident claims of an 'Unauthorized Guests' ...

In another letter to the PHA, X wrote:

In other words, I request a copy of the original complaint in the tenants [sic] own words, but excluding information not subject to release (according to PHA)...

Also, please provide the specific relevant Minnesota Statute under [Minnesota Statutes, Chapter 13] that PHA relies upon in its refusing to provide me information on the tenant who complained.

In a letter to X, Ms. Pietan wrote:

...The PHA will not provide names of complainants, nor will it provide the actual complaints with the protected data excluded from the content of the complaints as you suggest.

The PHA takes the position that any data that might identify an individual as a public housing tenant is private.

The pertinent section of Minn. Stat. Chapter 13 which the PHA relies upon is § 13.462.

Issue:

Based on X's opinion request, the Commissioner agreed to address the following issue:

Did the Saint Paul Public Housing Agency comply with Minnesota Statutes, Chapter 13, in denying a tenant access to copies of complaints made against the tenant?

Discussion:

Pursuant to Minnesota Statutes, section 13.03, subdivision 1, government data are public unless otherwise classified.

Benefit data are classified under section 13.462 and are defined in subdivision 1, in relevant part, as data on individuals collected or created because the individual seeks information about becoming, is, or was an applicant for or a recipient of benefits or services provided under various housing programs administered by government entities.

The operation of section 13.462 is such that all benefit data are private except for the data described in subdivision 2. The data listed in subdivision 2 as public include, "The names and addresses of applicants for and recipients of benefits, aid, or assistance through programs administered by a government entity that are intended to assist with the purchase, rehabilitation, or other purposes related to housing or other real property..."

In Advisory Opinion 05-023, the Commissioner opined that the language in subdivision 2 does not cover data about individuals collected and maintained on individuals who receive housing benefits *for the purposes of rental assistance*. Therefore, such data are private. (See section 13.462, subdivision 3.)

In her comments to the Commissioner, Ms. Pietan wrote:

...X requested that the PHA provide [X] with the name of a PHA tenant who had made a complaint to PHA management about X. Later, X adjusted [X's] request to indicate [X] wanted to obtain the *original* complaint letter that was written to PHA management, but with information deemed private by the PHA to be omitted. [Emphasis provided.]

The PHA declined to provide him with either the name of the complainant or the original letter with the suggested omission. The PHA based its determination on Minn. Stat. § 13.462. The PHA takes the position that the letter written by a PHA tenant and provided to management confidentially is private benefit data. It is highly likely that the author of the complaint letter would be identified by revealing the original letter to X. The original letter was collected and is maintained by the PHA because the author of the letter is a PHA tenant and as such, the PHA has a duty to protect the letter.

X asked for the name of the complaining tenant and a copy of the original complaint. Pursuant to section 13.462, data about individuals who receive housing benefits for the purposes of rental assistance are private. Therefore, the PHA cannot release to the public any data identifying any individual who receives rental assistance. Ms. Pietan wrote that if the PHA released the complaint letter to X, the identity of the complaining PHA tenant most likely would be revealed. Therefore, the PHA complied with Chapter 13 in responding to X's data request.

Opinion:

Based on the facts and information provided, my opinion on the issue that X raised is as follows:

The Saint Paul Public Housing Agency complied with Minnesota Statutes, Chapter 13, in denying a tenant access to copies of complaints made against the tenant.

Signed:

Dana B. Badgerow
Commissioner

Dated:

March 18, 2008