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### Advisory Opinion 10-010

This is an opinion of the Commissioner of Administration issued pursuant to Minnesota Statutes, section 13.072 (2009). It is based on the facts and information available to the Commissioner as described below.

#### **Facts and Procedural History:**

On March 4, 2010, the Information Policy Analysis Division (IPAD) received a letter, dated March 1, 2010, from Jim Stengrim. In his letter, Mr. Stengrim asked the Commissioner to issue an advisory opinion regarding whether the Middle Snake Tamarac Rivers Watershed District (MSTRWD) inappropriately disseminated data.

IPAD, on behalf of the Commissioner, wrote to Nick Drees, Administrator of the MSTRWD, in response to Mr. Stengrim's request. The purposes of this letter, dated March 15, 2010, were to inform him of Mr. Stengrim's request and to ask him to provide information or support for the MSTRWD's position. On April 5, 2010, IPAD received a response, dated same, from Gerald Von Korff, an attorney representing the MSTRWD.

A summary of the facts as Mr. Stengrim provided them is as follows. In his opinion request, Mr. Stengrim wrote:

Mr. [Gary] Toren of Toren Appraisal Services, was engaged by the MSTRWD to determine an "estimated" value range and/or "estimated" market value for a potential purchase of my real property. The MSTRWD distributed the February 10, 2009 letters (Exhibits A and B) to the public at the March 16, 2009 meeting. ...

Mr. Stengrim provided to the Commissioner a copy of two letters, both dated February 10, 2009, addressed to Mr. Drees from Mr. Toren. The letters are identical except that the February 10, Exhibit A, letter contains certain text not contained in the February 10, Exhibit B, letter. The text in the February 10, Exhibit A, letter that is not in the February 10, Exhibit B, letter is Mr. Toren's estimate of the value of Mr. Stengrim's property. Mr. Toren gives a dollar value for the entire property, which he breaks into three component parts (cropland, CRP [Conservation Reserve Program] cropland, and woodland), and a dollar value for each of the three component parts. Both the February 10, Exhibit A, letter and the February 10, Exhibit B, letter also contain a range of the estimated market value of Mr. Stengrim's property.

In a June 9, 2009, letter to MSTRWD Board Chair, Douglas Sorenson, Mr. Stengrim wrote: "The letter dated February 10, 2009 appears to be the report of the determined valued range and has been disseminated to the public. This willful action appears to be a clear violation of Minnesota Statutes, Chapter 13.44, subdivision 3."

**Issue:**

Based on Mr. Stengrim's opinion request, the Commissioner agreed to address the following issue:

Did the Middle Snake Tamarac Rivers Watershed District (MSTRWD) comply with Minnesota Statutes, Chapter 13, when it disclosed "the 'estimated' value reports of the Stengrim property" to the public at the March 16, 2009, Board Meeting?

**Discussion:**

Pursuant to Minnesota Statutes, Chapter 13, government data are public unless otherwise classified. (Minnesota Statutes, section 13.03, subdivision 1.)

Minnesota Statutes, section 13.44, subdivision 3(a), classifies "estimated or appraised values of individual parcels of real property that are made by personnel of a government entity or by independent appraisers acting for a government entity for the purpose of selling or acquiring land through purchase or condemnation" as confidential (data on individuals) or protected nonpublic (data not on individuals).

In his comments to the Commissioner, Mr. Von Korff wrote:

... Mr. Stengrim inquired of [the MSTRWD] whether it would be willing to make a payment to induce him to settle [a court case] ... [Mr.] Stengrim's attorney...indicated that another line of potential settlement would be that as part of the consideration for the settlement, [the MSTRWD] would take some land that [Mr.] Stengrim owned ...

[The MSTRWD] had no need for this land. It did not want to purchase it. The only public purpose for receiving it would be to terminate its litigation with [Mr.] Stengrim ...

It was for this reason that the managers commissioned a range of value opinion. They wanted to settle the dispute on the board of managers regarding whether the cost of the release was exorbitant ... or prudent ...

... The land valuation was not obtained for the purpose of purchasing land: it was acquired to assure that any settlement would be transparently costed ...

Mr. Von Korff attached to his comments a February 26, 2009, letter from Mr. Stengrim to Mr. Toren. In this letter, Mr. Stengrim wrote:

You confirmed that the MSTRWD requested that you determine "a value range" of the market value of my property for the potential purchase by MSTRWD. ... When asked if the MSTRWD informed you that this property was part of a settlement offer, not as a direct potential purchase, concerning a lawsuit you acknowledged they had not.

Mr. Stengrim states that the MSTRWD obtained an appraisal of his property for the purpose of purchasing his property. Mr. Von Korff states that the MSTRWD obtained the appraisal to determine the value of Mr. Stengrim's settlement proposal. This is a factual dispute the Commissioner cannot resolve.

