Advisory Opinion 13-003

This is an opinion of the Commissioner of Administration issued pursuant to Minnesota Statutes, section 13.072 (2012). It is based on the facts and information available to the Commissioner as described below.

Facts and Procedural History:

On November 30, 2012, the Information Policy Analysis Division (IPAD) received an advisory opinion request from Cynthia Charest, dated the same. In her letter, Ms. Charest asked the Commissioner to issue an advisory opinion regarding certain data that the City of Minneapolis maintains. IPAD asked for additional information, which Ms. Charest provided on December 7, 2012.

In a letter dated, December 7, 2012, the Commissioner offered Casey Joe Carl, Minneapolis City Clerk and data practices responsible authority, an opportunity to comment. IPAD received Mr. Carl's response on December 28, 2012.

A summary of the facts follows. Ms. Charest wrote in her opinion request:

> On Dec 14, 2011, I emailed a data request to Mr. Craig Steiner, [former] Responsible Authority for the City of Minneapolis, regarding a 2009 inspection,: "Under the Minnesota Government Data Practices Act, Please provide any and all public data for the following (inspection) RFS: 09-0730373."
>
> On Dec 14th, 2011, I received computer screen-shots but no inspection data from Regulatory Services.
>
> On December 16, 2011, Craig Steiner, Responsible Authority for the City of Minneapolis, stated that I had received "all the data associated with the request."
>
> I believe that further data was available pursuant to my 12/14/11 data request to the City of Minneapolis because:
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> - On June 15th of 2012, further data was released to me by Mr. Steiner regarding RFS 09-0730373: specifically, a form signed by an inspector, showing that a housing inspection had been completed on 10-29-09 under RFS 09-0730373. As well as letters to the owner and tenants, showing that in Oct of 2009, Regulatory Services was planning on conducting an inspection on the property.

- I was not told that this data had been classified as confidential or private prior to its release in June of 2012. Or given reason under Chapter 13 why it would have been classified as private or confidential prior to its release in June of 2012.

Issue:

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

> Pursuant to Minnesota Statutes, Chapter 13, did the City of Minneapolis respond properly to a request for housing inspection data?

Discussion:

Pursuant to Minnesota Statutes, section 13.03, when a government entity receives a request from an individual who is not the subject of the data, the entity is required to respond in an appropriate and prompt manner, and within a reasonable time. (See section 13.03, subdivision 2(a), and Minnesota Rules, part 1205.0300.) Although the Legislature did not define "reasonable time," the Commissioner has stated in previous opinions that it is relative to the amount of data requested. (See Advisory Opinions 95-006, 97-005, 04-027.)

Further, previously issued advisory opinions have established that, when responding to data requests, government entities should provide the data, advise that the data are classified such as to deny the requesting person access (see section 13.03 subdivision 3(f)), or inform the requester that the data do not exist (see Advisory Opinions 00-017, 02-017, and 08-026).

In this instance, on December 14, 2011, Ms. Charest requested data for an inspection conducted in 2009. On the same day, the City responded by providing computer screen shots related to the request. The City followed up two days later stating that it had provided Ms. Charest with all data responsive to her request. On June 15, 2012, Ms. Charest received additional data related to the 2009 inspection.

In the City's response, Mr. Carl wrote:

> In the present case, Ms. Charet [sic] filed 16 requests (identified in attached spreadsheet as requests A-P) for data or clarification, all of which were regarding the same issue, but which sought different specific information. Ms. Charet requested data from a variety of sources throughout the City, and as her understanding of the City's system grew, so did the detail of her requests. [Craig Steiner, former responsible authority] worked to fulfill all requests made by Ms. Charet and worked with staff from throughout the City to do so. As can be seen in emails contained in Exhibit 2, at times Ms. Charet's understanding about what was contained within the record was limited, necessitating Mr. Steiner and other City staff to explain an increasing and diversifying array of City programs and processes. Ultimately, much of the data Ms. Charet requested did not exist within the KIVA system, and therefore could not be provided to her. However, at all points during the process, any requested information available to the City staff was provided to Ms. Charet. Any supplemental data provided to Ms. Charet throughout the process, was either not available at the time of the initial request, or was provided as a result of a different type of request.

The record of correspondence between Ms. Charest and the City is lengthy and involves a number of individuals at the City. It is not always clear when Ms. Charest was making a new request and when she is asking for clarification of a previous request. Ms. Charest requested "all" data related to the 2009 inspection. The City responds that any additional data provided to Ms. Charest was either unavailable at the time of the request or provided as a result of the ongoing communication and clarification between Ms. Charest and the City. There continued to be ongoing correspondence between Ms. Charest and the City throughout December 2011 and the fall of 2012.

Based on the nature of the communication between Ms. Charest and the City and the record available, the Commissioner is unable to determine whether the City's response was appropriate. However, the record demonstrates that the City seemingly acted in good faith and was in near-constant communication with Ms. Charest.

This is an opportunity for the Commissioner to remind data requesters and government entities that both play a role in the resolution of data requests. Where a data request is perhaps confusing or overly-broad, a government entity should seek clarification from the data requester as soon as possible (see Advisory Opinions 01-075 and 04-066) and where possible provide information for the data requester to make a more specific, focused request. Likewise, the data requester should provide that clarification in a timely manner. By doing so, the entity and the requester ensure that requests will be reasonably made and fulfilled.

Opinion:

Based on the facts and information provided, the Commissioner's opinion on the issues Ms. Charest raised is as follows:

> Because of the nature of the correspondence between the City and the data requester, the Commissioner is unable to determine whether the City responded properly to a request for inspection data, despite the City's good faith effort to respond.

Spencer Cronk
Commissioner

January 23, 2013