



Attorney General Of New Mexico

HECTOR H. BALDERAS
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Chief Deputy Attorney General

March 1, 2016

Mary Ann Hatchitt,
Records Custodian
New Mexico Department of Cultural Affairs
407 Galisteo Street, Suite 200
Santa Fe, NM 87501

RE: Inspection of Public Records Complaint – R.G. Wakeland

Dear Ms. Hatchitt:

We have completed our review of Ms. Wakeland's complaint under the Inspection of Public Records Act ("IPRA" or "Act") alleging failure by the Department of Cultural Affairs (DCA) to cite to the statutory sections allowing for the redaction of identifying information of members of the public from public records provided to Ms. Wakeland. As noted below, based on the information provided to us, we find the DCA has substantially complied with the IPRA. In your response letter dated May 16, 2015 you state that you have subsequently provided the documents without any redaction, as there is no statutory basis for redacting the names and addresses of individuals who had filed requests permission for access to certain cultural property or cultural property records.

Although you are correct as to the lack of statutory authority for such a redaction, we would like to direct your attention to Section 14-2-6(G) of the IPRA, the definition of "public records." The definition of a public record is very broad, and virtually any document in the custody or control of a public body may fall within that definition, provided the document *also* relates to public business. The home address of a member of the public filing a request with DCA does not seem to relate to public business. In Cox v. Dep't of Public Safety, the court of appeals discussed the presence of personal information such as home address and phone number in a public record deeming that this "sensitive personal information" should be redacted prior to permitting public inspection of the documents in light of the threat of identity theft. Cox v. Dep't of Public Safety, 2010-NMCA-096, ¶ 30-31; see also § 14-2-9(A) (stating that "[r]equested public records containing information that is exempt and nonexempt from disclosure shall be separated by the custodian prior to inspection, and the nonexempt information shall be made available for inspection.") Therefore, the earlier redaction of the personal information relating to members of the public was proper. In light of the foregoing, DCA may also want to consider the reason for asking such personal information from members of the public.

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Given that the inspection request has been complied with, we will close this file. We thank you for taking steps for complying with the IPRA. Please do not hesitate to contact us if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Valicenti". The signature is fluid and cursive, with a long horizontal stroke at the end.

Mona Valicenti
Assistant Attorney General

cc: R.G. Wakeland

TO: Attn: Laverne Roller New Mexico Attorney General office Inspection of Public Records Act violations PO Box 1508 Santa Fe NM 87504 FAX: (505) 827-6478 PHONE: (505) 827-6063	FROM: R. G. Wakeland <i>R.G. Wakeland</i>
RE: inspection of public records act (IPRA) NMSA 1978 §14-2-1 through 14-2-12 Cultural affairs department (CAD)	TOTAL PAGES: 2 DATE: 3/31/15

I am enclosing a letter to me dated 3/23/15 from Hatchitt (CAD) responding to my inspection of public records requests. This is a violation of IPRA because Hatchett or someone else at CAD redacted portions of the records produced, without giving a statutory reason. Additionally, many of the files on the CD are impossible to open. The date has passed for providing these records.

If you have any questions or need any further info, you can call or send a fax.