

STATE OF NEW MEXICO  
OFFICE OF THE ATTORNEY GENERAL



HECTOR H. BALDERAS  
ATTORNEY GENERAL

---

April 17, 2019

Stephen R. Chavez  
1716 Griegos Road Northwest  
Albuquerque, New Mexico 87107

**RE: Inspection of Public Records Act Complaint – City of Albuquerque**

Dear Mr. Chavez:

On or about September 6, 2018, the Office of the Attorney General, Open Government Division (“OGD”), received your complaint against City of Albuquerque (“City”) alleging violations of the Inspection of Public Records Act (“IPRA”), NMSA 1978, 14-2-1 through 14-2-12. The complaint alleges that the City failed to provide records responsive to the IPRA request.

Over the course of approximately one month, you submitted five IPRA requests to the City through the City’s NextRequest system. The requests essentially involve documents related to the investigation of the city fleet manager, Marina Wells and Eric Voccio. You withdrew the fifth IPRA request.

Every person has a right to inspect public records of the state. NMSA 1978, Section 14-2-1. However there are exceptions to that right including records that are otherwise protected by law. NMSA 1978, Section 14-2-1(A)(8). One exception to the right to inspect records of the state includes records involving Lawyer-Client Privilege. NMRA 11-503(B). Rule 11-503 protects confidential records created when attorneys provide professional legal services to their client. Another exception to the right to inspect involves attorney work product. Rule 1-026(B)(5) protects attorney work product prepared in anticipation of litigation or for trial by or for another party or that party’s representative.

The City denied all four requests stating that the City “cannot permit inspection of these records because they are exempt from disclosure under New Mexico’s Inspection of Public Records Act, NMSA 1978, § 14-2-2(A)(8) (as otherwise provided by law, including but not limited to NMRA, Rule 11-503 (attorney-client privilege); NMRA, Rule 1-026(B)(5) (attorney work product).”

Stephen R. Chavez

April 17, 2019

Page 2

After review of your complaint, the City's response and supporting documentation, our office cannot conclude that the City improperly denied your IPRA request based upon Lawyer-Client Privilege and Attorney Work Product. Without reviewing the documents withheld by the City, the OGD cannot definitively determine if the withheld documents fall under the IPRA exception. When a public entity withholds public records, a court may conduct an in camera review of the withheld records. *See, e.g., Bd. of Comm'rs v. Las Cruces Sun-News*, 2003-NMCA-102, ¶¶ 11-13, 134 N.M. 283, 76 P.3d 36. However, the OGD does not have the authority to conduct such a review.

When denying a written request for documents, the agency must provide the requester with a written explanation for the denial within fifteen days after receipt of the written request. NMSA 1978, Section 14-2-11 (C). The documents provided to our office show that the City was late issuing denial letters for requests 18-4692, 18-4693 and 18-4694 in violation of NMSA 1978, § 14-2-11(C). Based upon the documents, it appears that the City failed to timely deny your IPRA requests but has taken remedial action to come into compliance with the statute. *See Derringer v. State*, 2003-NMCA-073, 133 N.M. 721, 68 P.3d 961, *cert. denied*, 133 N.M. 727, 69 P.3d 237.

Accordingly, we consider this matter closed. Thank you for affording our office this opportunity to be of assistance.

Sincerely,



Lori Chavez  
Assistant Attorney General

cc: Jeffrey Driggers, Managing Assistant City Attorney

STATE OF NEW MEXICO  
OFFICE OF THE ATTORNEY GENERAL



HECTOR H. BALDERAS  
ATTORNEY GENERAL

## Electronic Complaint Submission

### Submission Detail

<b>ECS Reference Number</b>	NMOAG-ECS-20180906-0a88
<b>Final Submit Date</b>	9/6/2018 5:03:47 PM

**Disclosure of your complaint:** This complaint is a public record, thus available under provisions of the NM Inspection of Public Records Act.

**Disclosure to other entities:** This complaint, its content, and other information may be disclosed to other law enforcement and regulatory agencies.

**I understand this complaint and any submitted documents are public record and may be shared with other law enforcement and regulatory agencies.**

**DECLARATION:** By submitting this form, I attest that the information in this complaint is true and accurate to the best of my knowledge. I further understand that by submitting this form I may be called to testify as a witness in this matter.

**I understand declaration statement.**

*The New Mexico Office of the Attorney General cannot give legal advice regarding this complaint and will not act as your personal attorney. If you have questions regarding your rights please contact a private attorney.*

*Submission of this complaint is not confirmation that an investigation will be initiated.*

## Complaint Detail

**Complaint Type** Inspection of Public Records (IPRA) Complaint

**Retained Attorney**

## Parties

### Complainant

**Mr. Stephen R Chavez**

Person

**Address**

1716 Griegos Rd NW  
Albuquerque, New Mexico 87107

**Contact information**

[sralaraj99@gmail.com](mailto:sralaraj99@gmail.com)  
(505) 990-9395

### Complaint against

**city of albuquerque - legal department**

Public Body (Government Entity)

**Address**

1 Civic Plaza  
Albuquerque, New Mexico 87102

**Contact information**

Contact I worked with was Crystal Velarde

## Complaint Specifics

<b>Format of IPRA request:</b>	Written
<b>Date IPRA request was submitted to the public body:</b>	8/16/2018
<b>Date of all responses received from the public body:</b>	8/21/18 and 9/5/18
<b>Records</b>	No records were provided.

## Transaction

## Documents

\*\*\* END OF COMPLAINT \*\*\*



Salazar, Patricia <psalazar@nmag.gov>

---

**Fwd: Your City of Albuquerque public records request #18-4692 has been closed.**

---

**sralaraj99@gmail.com** <sralaraj99@gmail.com>  
To: psalazar@nmag.gov

Fri, Sep 14, 2018 at 2:01 PM

Sent from my iPhone

Begin forwarded message:

**From:** "City of Albuquerque Public Records" <cityclerk@cabq.gov>  
**Date:** September 5, 2018 at 4:53:12 PM MDT  
**To:** [sralaraj99@gmail.com](mailto:sralaraj99@gmail.com)  
**Subject:** Your City of Albuquerque public records request #18-4692 has been closed.  
**Reply-To:** [cabq\\_18-4692-requester-notes@inbound.nextrequest.com](mailto:cabq_18-4692-requester-notes@inbound.nextrequest.com)

-- Attach a non-image file and/or reply ABOVE THIS LINE with a message, and it will be sent to staff on this request. --

## City of Albuquerque Public Records

**Hi there**

Record request #18-4692 has been closed. The closure reason supplied was:

Dear Mr. Chavez,

On 8/16/18 we received your request for the following:

would like to request the results of the recent investigation regarding the city fleet manager, marina wells and eric voccio.

We cannot permit inspection of these records because they are exempt from disclosure under New Mexico's Inspection of Public Records Act. NMSA 1978, § 14-2-1(A)(8) (as otherwise provided by law, including but not limited to NMRA, Rule 11-503 (attorney-

client privilege); NMRA, Rule 1-026(B)(5) (attorney work product)). I am therefore denying inspection of those records.

Sincerely,

Crystal Velarde

Legal Records Custodian

[View Request 18-4692](#)

<http://nextrequest.cabq.gov/requests/18-4692>



**POWERED BY NEXTREQUEST**

*The All in One Records Requests Platform*

*Questions about your request? Reply to this email or sign in to contact staff at City of Albuquerque.*

*Technical support: See our [help page](#)*



Salazar, Patricia <psalazar@nmag.gov>

---

**Fwd: Your City of Albuquerque public records request #18-4693 has been closed.**

---

**sralaraj99@gmail.com** <sralaraj99@gmail.com>  
To: psalazar@nmag.gov

Fri, Sep 14, 2018 at 2:01 PM

Sent from my iPhone

Begin forwarded message:

**From:** "City of Albuquerque Public Records" <cityclerk@cabq.gov>  
**Date:** September 5, 2018 at 4:55:54 PM MDT  
**To:** [sralaraj99@gmail.com](mailto:sralaraj99@gmail.com)  
**Subject:** Your City of Albuquerque public records request #18-4693 has been closed.  
**Reply-To:** [cabq\\_18-4693-requester-notes@inbound.nextrequest.com](mailto:cabq_18-4693-requester-notes@inbound.nextrequest.com)

-- Attach a non-image file and/or reply ABOVE THIS LINE with a message, and it will be sent to staff on this request. --

## City of Albuquerque Public Records

**Hi there**

Record request #18-4693 has been closed. The closure reason supplied was:

Dear Mr. Chavez,

On 8/16/18 we received your request for the following:

Requesting all documents regarding the recent investigation of the city fleet manager, marina wells and eric voccio, involving a letter of no confidence

We cannot permit inspection of these records because they are exempt from disclosure under New Mexico's Inspection of Public Records Act. NMSA 1978, § 14-2-1(A)(8) (as otherwise provided



by law, including but not limited to NMRA, Rule 11-503 (attorney-client privilege); NMRA, Rule 1-026(B)(5) (attorney work product)). I am therefore denying inspection of those records.

Sincerely,

Crystal Velarde

Legal Records Custodian

[View Request 18-4693](#)

<http://nextrequest.cabq.gov/requests/18-4693>



**POWERED BY NEXTREQUEST**

*The All in One Records Requests Platform*

*Questions about your request? Reply to this email or sign in to contact staff at City of Albuquerque.*

*Technical support: See our [help page](#)*



Salazar, Patricia <psalazar@nmag.gov>

---

**Fwd: Your City of Albuquerque public records request #18-4694 has been closed.**

---

**Steve Chavez** <stevechavez625@gmail.com>  
To: Patricia Salazar <psalazar@nmag.gov>

Fri, Sep 14, 2018 at 2:00 PM

Sent from my iPhone

Begin forwarded message:

**From:** Steve Chavez <[stevechavez625@gmail.com](mailto:stevechavez625@gmail.com)>  
**Date:** September 6, 2018 at 4:51:04 PM MDT  
**To:** [sralaraj99@gmail.com](mailto:sralaraj99@gmail.com)  
**Subject:** Re: Your City of Albuquerque public records request #18-4694 has been closed.

On Wed, Sep 5, 2018 at 11:52 PM <[sralaraj99@gmail.com](mailto:sralaraj99@gmail.com)> wrote:

Sent from my iPhone

Begin forwarded message:

**From:** "City of Albuquerque Public Records" <[cityclerk@cabq.gov](mailto:cityclerk@cabq.gov)>  
**Date:** September 5, 2018 at 4:57:19 PM MDT  
**To:** [sralaraj99@gmail.com](mailto:sralaraj99@gmail.com)  
**Subject:** Your City of Albuquerque public records request #18-4694 has been closed.  
**Reply-To:** [cabq\\_18-4694-requester-notes@inbound.nextrequest.com](mailto:cabq_18-4694-requester-notes@inbound.nextrequest.com)

-- Attach a non-image file and/or reply ABOVE THIS LINE with a message, and it will be sent to staff on this request. --

City of Albuquerque Public Records

**Hi there**

Record request #18-4694 has been closed. The closure reason supplied was:

Dear Mr. Chavez,

On 8/16/18 we received your request for the following:

Requesting all documents pertaining to the recent investigation of the city's fleet manager, marina wells and eric voccio, redacted to NOT include anything having to do with attorney/client privilege.

We cannot permit inspection of these records because they are exempt from disclosure under New Mexico's Inspection of Public Records Act. NMSA 1978, § 14-2-1(A)(8) (as otherwise provided by law, including but not limited to NMRA, Rule 11-503 (attorney-client privilege); NMRA, Rule 1-026(B)(5) (attorney work product)). I am therefore denying inspection of those records.

Sincerely,

Crystal Velarde

Legal Records Custodian

[View Request 18-4694](#)

<http://nextrequest.cabq.gov/requests/18-4694>



**POWERED BY NEXTREQUEST**

*The All in One Records Requests Platform*

*Questions about your request? Reply to this email or sign in to contact staff at City of Albuquerque.*

*Technical support: See our [help page](#)*



Salazar, Patricia <psalazar@nmag.gov>

**Fwd: [External Message Added] City of Albuquerque public records request #18-5102**

**sralaraj99@gmail.com** <sralaraj99@gmail.com>  
To: psalazar@nmag.gov

Fri, Sep 14, 2018 at 2:02 PM

Sent from my iPhone

Begin forwarded message:

**From:** "City of Albuquerque Public Records" <cityclerk@cabq.gov>  
**Date:** September 7, 2018 at 9:51:54 AM MDT  
**To:** [sralaraj99@gmail.com](mailto:sralaraj99@gmail.com)  
**Subject:** [External Message Added] City of Albuquerque public records request #18-5102  
**Reply-To:** [cabq\\_18-5102-requester-notes@inbound.nextrequest.com](mailto:cabq_18-5102-requester-notes@inbound.nextrequest.com)

-- Attach a non-image file and/or reply ABOVE THIS LINE with a message, and it will be sent to staff on this request. --

City of Albuquerque Public Records

**Hi there**

A message was sent to you regarding record request #18-5102:

Dear Mr. Chavez,

On 9/6/18, we received your request to inspect the following:

I am requesting any individual documents and/or documentation regarding the investigation of the city's fleet manager, marina wells and eric voccio that individually are **not** exempt from disclosure under New Mexico's Inspection of Public Records Act, NMSA 1978, 14-2-1(A)(8) (as otherwise provided by law,

including but not limited to NMRA, Rule 11-503 (attorney-client privilege); NMRA, Rule 1-026(B)(5) (attorney work product)). What is especially of interest is any kind of executive summary provided by RCI to the City, or any subset of said document that is **not** exempt from disclosure under New Mexico's Inspection of Public Records Act, NMSA 1978, 14-2-1(A)(8) (as otherwise provided by law, including but not limited to NMRA, Rule 11-503 (attorney-client privilege); NMRA, Rule 1-026(B)(5) (attorney work product))

Per our phone conversation, you are looking for RCI's finding for the 2017/2018 investigation. Not the report of the interviews or the audio recordings of the interviews. You are only interested in the information provided to the City from RCI with their conclusion of the investigation. Did I summarize this correctly?

If so, please allow us 15 calendar days to respond to your request.

Sincerely,

Crystal Velarde

Legal Records Custodian

[View Request 18-5102](#)

<http://nextrequest.cabq.gov/requests/18-5102>



**POWERED BY NEXTREQUEST**

*The All in One Records Requests Platform*

*Questions about your request? Reply to this email or sign in to contact staff at City of Albuquerque.*

*Technical support: See our [help page](#)*





Salazar, Patricia <psalazar@nmag.gov>

---

## Fwd: Your City of Albuquerque public records request #18-5102 has been closed.

---

Steve Chavez <stevechavez625@gmail.com>  
To: psalazar@nmag.gov

Thu, Sep 20, 2018 at 5:54 AM

Patricia,

Just received yesterday: denial of summary document

Thank you,

Steve Chavez  
505-990-9395

Sent from my iPhone

Begin forwarded message:

**From:** "City of Albuquerque Public Records" <cityclerk@cabq.gov>  
**Date:** September 18, 2018 at 2:41:39 PM MDT  
**To:** [sralaraj99@gmail.com](mailto:sralaraj99@gmail.com)  
**Subject:** Your City of Albuquerque public records request #18-5102 has been closed.  
**Reply-To:** [cabq\\_18-5102-requester-notes@inbound.nextrequest.com](mailto:cabq_18-5102-requester-notes@inbound.nextrequest.com)

-- Attach a non-image file and/or reply ABOVE THIS LINE with a message, and it will be sent to staff on this request. --

### City of Albuquerque Public Records

**Hi there**

Record request #18-5102 has been closed. The closure reason supplied was:

Dear Mr. Chavez,

On September 6, 2018, we received your request for the following:

I am asking for whatever summary document(s) that was/were created as a result of the recent investigation regarding the city's fleet manager, marina wells, and assistant fleet manager, eric voccio. The investigation was performed by RCI.

We cannot permit inspection of these records because they are exempt from disclosure under New Mexico's Inspection of Public Records Act. NMSA 1978, § 14-2-1(A)(8) (as otherwise provided by law, including but not limited to NMRA, Rule 11-503 (attorney-client privilege); NMRA, Rule 1-026(B)(5) (attorney work product)). I am therefore denying inspection of those records.

Sincerely,

Crystal Velarde

Legal Records Custodian

[View Request 18-5102](#)

<http://nextrequest.cabq.gov/requests/18-5102>



**POWERED BY NEXTREQUEST**

*The All in One Records Requests Platform*

*Questions about your request? Reply to this email or sign in to contact staff at City of Albuquerque.*

*Technical support: See our [help page](#)*