

STATE OF NEW MEXICO
OFFICE OF THE ATTORNEY GENERAL



HECTOR H. BALDERAS
ATTORNEY GENERAL

June 11, 2021

VIA ELECTRONIC MAIL ONLY

Token Garnica
13 Parador Ct
Los Lunas, New Mexico 87031
Email: tokengarnica@gmail.com

Re: Inspection of Public Records Act Complaint – Eastland Hills Homeowners Association

Dear Ms. Garnica:

The Office of the Attorney General, Open Government Division (“OGD”) has received your complaint alleging violations of the Inspection of Public Records Act (“IPRA”), NMSA 1978, Sections 14-2-1 to -12 (1947, as amended through 2019), by the Eastland Hills Homeowners Association (the “Homeowners Association”). The OGD is charged with enforcement of the IPRA and in that capacity has reviewed the facts and allegations in your complaint. *See* NMSA 1978, § 14-2-12(A).

In New Mexico, the people are entitled to “the greatest possible information” about governmental affairs pursuant to the Inspection of Public Records Act. NMSA 1978, § 14-2-5. *See also San Juan Agr. Water Users Ass’n v. KNME-TV*, 2011-NMSC-011, ¶ 16 (noting that, “IPRA is intended to ensure that the public servants of New Mexico remain accountable to the people they serve.”). To that end, IPRA specifically states that the public has the right to inspect and copy all “public records” held by or on behalf of government agencies with only limited and specifically enumerated exceptions. Section 14-2-1(A). The statute sets forth procedures and requirements that are applicable to any “written request” to inspect public records submitted to a government agency. Section 14-2-8(A).

In your complaint to our Office, you allege that the Homeowners Association failed to provide you records responsive to your request dated April 23, 2021. However, as a private organization, the Homeowners Association is not a “public body” subject to IPRA. *See* § 14-2-6(F). Instead, as your complaint itself recognizes, homeowners associations are subject to the provisions of the Homeowner Association Act, NMSA 1978, Sections 47-16-1 to -18 (2013, as amended through

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2019). That statute specifically provides that “[a]ll financial and other records of the association shall be made available during regular business hours for examination by a lot owner within ten business days of a written request.” Section 47-16-5. We note that you cited this particular provision of the Homeowner Association Act in both your complaint to our Office and your letter to the Homeowners Association as the legal authority behind your records request. In any case, since the Homeowners Association is not subject to IPRA, we must conclude that your complaint has not identified a violation of IPRA, and we consider this matter closed.

The Office of the Attorney General appreciates you bringing possible violations to this office and will welcome any further complaints you may submit. If you have any concerns in the future, please do not hesitate to contact us. Additionally, the IPRA Guide is available on the website of the Office of the Attorney General at www.nmag.gov.

Sincerely,



John Kreienkamp

Assistant Attorney General

Enclosure

cc: Sean Gabaldon, Eastland Hills Homeowners Association
Eastlandhillsmhoa@gmail.com