

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Jon Lindell,

Complainant,

vs.

City of Scandia,

Respondent.

**NOTICE OF PROBABLE CAUSE
DETERMINATION AND ORDER
DISMISSING COMPLAINT**

On March 31, 2020, Jon Lindell (Complainant) filed a Data Practices Complaint (Complaint) with the Office of Administrative Hearings alleging that the City of Scandia (City) violated the Minnesota Government Data Practices Act (MGDPA or Act).¹ The Chief Administrative Law Judge assigned the matter to the undersigned Administrative Law Judge on that date.

On April 1, 2020, the Office of Administrative Hearings notified the City of the Complaint by email and certified mail. On April 18, 2022, the City filed a response to the Complaint.

Complainant appears on his own behalf and without counsel. Christopher Nelson, City Attorney, appears on behalf of the City of Scandia.

Based upon the record, and for the reasons explained in the accompanying Memorandum, the Administrative Law Judge issues the following:

ORDER

The Complaint does not allege facts sufficient to establish probable cause to believe the City has violated the MGDPA and is therefore **DISMISSED**.

Dated: April 27, 2022


CHRISTA L. MOSENG
Administrative Law Judge

¹ Minn. Stat. §§ 13.01-.99 (2020).

NOTICE OF RECONSIDERATION AND APPEAL RIGHTS

Minn. Stat. § 13.085, subd. 3, provides that the Complainant has the right to seek reconsideration of this decision on the record by the Chief Administrative Law Judge. A petition for reconsideration must be filed with the Office of Administrative Hearings no later than five business days after the Complainant receives notice that the Complaint has been dismissed for failure to present sufficient facts to believe that a violation of Minn. Stat. §§ 13.01-.99 has occurred. If the Chief Administrative Law Judge determines that the assigned Administrative Law Judge made a clear material error and grants the petition, the Chief Administrative Law Judge will schedule the complaint for a hearing under Minn. Stat. § 13.085, subd. 4.

If the Complainant does not seek reconsideration, or if the Chief Administrative Law Judge denies a petition for reconsideration, then this order is the final decision in this matter under Minn. Stat. § 13.085, subd. 5(d), and a party aggrieved by this decision may seek judicial review as provided in Minn. Stat. §§ 14.63 to 14.69 (2020).

MEMORANDUM

I. Factual Background and Procedural History

Complainant alleges that on March 28, 2022, the City violated Minn. Stat. §§ 13.03 and .05 and Minn. R. 1205 (2021), and sets forth the following factual allegations in support:

I have asked for various operating, levy, and financing information from the City of Scandia. Some of the requested data has been provided but not all and lately no response to my inquiries about the status of my requests. On some of my requests I was instructed to ask another person working for Scandia. When I did still no response. The data I requested concerned operating, financing, and levy.²

The Complaint appears to allege that the City's violations include inadequate or untimely response,³ and that one or more officials did not carry out the duties of a responsible authority.⁴ The Complaint also alleges a violation of Minn. R. 1205 but does not allege a specific rule part to have been violated.

In its response, the City asserted its belief that it had responded fully to Complainant's data practices requests.⁵ The City provided three email exchanges between Complainant and City Administrator Kenneth Cammilleri as exhibits to support

² Data Practices Complaint of Jon Lindell (March 31, 2022) (Complaint).

³ Minn. Stat. § 13.03.

⁴ Minn. Stat. § 13.05.

⁵ Letter from City Attorney Christopher Nelson (filed April 18, 2022) (City's Response).

its response.⁶ The City provided responsive information by email to Complainant concerning operating, levy, and financing information on March 29 and 30, 2022.⁷ In an email on March 30, Complainant wrote to the city that “I think the only remaining unanswered questions are internet related.”⁸

The City also provided a response to a request from Complainant for “internet related” information on March 31, 2022. The exact “internet related” request that the City responded to has not been provided by either party.⁹

II. Probable Cause Standard

A complaint alleging a violation of the MGDPA may be filed with the Office of Administrative Hearings.¹⁰ Upon the filing of a data practices complaint, an administrative law judge must conduct a probable cause review.¹¹ If the administrative law judge determines that the complaint and any timely response do not present sufficient facts to believe that a violation occurred, the complaint must be dismissed. However, if the administrative law judge determines that the complaint and response present sufficient facts to believe that a violation of the MGDPA has occurred, the administrative law judge must schedule a hearing.

The purpose of a probable cause determination is to ascertain whether, given the facts submitted by the parties, it is fair and reasonable to hear the matter on the merits.¹² A judge’s function in a probable cause determination is simply to determine whether the initial facts establish a reasonable belief that the governmental entity committed a data practices violation.

III. Analysis

Under the MGDPA, a complaint must “detail the factual basis for the claim that a violation of law has occurred.”¹³ Complainant has not provided sufficient detail in the complaint to make a finding of probable cause that the City of Scandia has violated the MGDPA.

The Complaint does not detail when the information was requested, or when other relevant actions or alleged failures to act took place. The Complaint also lacks specificity regarding the scope of Complainant’s request(s) and what aspects of the request(s) remained unfulfilled. At least some detail about the timing and scope of any request for public information, and the response or lack of response to a request, is necessary

⁶ Exhibits (Ex.) 1–3 to the City’s Response.

⁷ Exs. 1 and 2.

⁸ Ex. 2.

⁹ Ex. 3.

¹⁰ Minn. Stat. § 13.085, subd. 2.

¹¹ *Id.*, subd. 3(a).

¹² *State v. Florence*, 239 N.W.2d 892, 902 (Minn. 1976).

¹³ Minn. Stat. § 13.085, subd. 2(c).

information for a probable cause determination relating to the adequacy of a response to a public data request under Minn. Stat. § 13.03.¹⁴

The Complaint similarly lacks a detailed factual basis for a claim that the City violated Minn. Stat. § 13.05 or Minn. R. 1205. Complainant alleges that “[o]n some of my requests I was instructed to ask another person working for Scandia.” This allegation is not sufficient to find probable cause that the City violated provisions relating to the duties of a responsible authority.

Finally, Complainant’s correspondence with the City acknowledges that only “internet related” requests remain unsatisfied. The Complaint does not reference “internet related” requests, or connect them to the “operating, levy, and financing information” requests that were the basis for the Complaint.

In the absence of details sufficient to create a reasonable belief that the City’s responses were untimely or incomplete, probable cause of a violation cannot be found. Because the Complaint lacks sufficient information to find probable cause of a violation, and because the City has apparently fulfilled the requests that formed the basis of the Complaint, this matter should be dismissed.

IV. Conclusion

The Complaint does not allege facts sufficient to establish probable cause to believe the City has violated the MGDPA, and must therefore be dismissed.

¹⁴ See, e.g., Minn. Stat. § 13.085, subd. 2(b) (providing a statute of limitations on filing a complaint); Minn. Stat. § 13.03, subd. 3(c) (requiring that copies of public data be provided “as soon as reasonably possible”).