

October 5, 1977

Mr. James T. Odegard
Assistant State's Attorney
Grand Forks County
P.O. Box 607
Grand Forks, ND 58201

RE: Open Records Statute
Section 44-04-18

Dear Mr. Odegard:

This is in reply to your letter of September 8, 1977, relative to the above captioned matter. You state the following facts and questions:

"Your opinion on the following question would be appreciated.

"This request is a follow-up to our telephone conversation of July 7, 1977, relative to the above cited statute.

"Since the time of our telephone call, we have been presented a copy of a letter of August 2, 1977, submitted to you to Mr. T. Frederickson, Jr., specifically page 2 the second paragraph relative to 'reasonable office hours' as it would apply to the above statute.

"Specifically, we are concerned with the question as to whether or not photocopies or hard copies of the public records are or should be made available as a matter of right, or as a matter of courtesy in as much as the statute is silent on this issue.

"Second, pertaining to your letter of August 2, 1977, and the above referred paragraph, H.H. Galloway, attorney for the Grand Forks Water Management and Control Board advised, relative to the examination of the Board's records:

'In so far as examination of records, we have them available during normal office hours from 9:00 a.m. to 5:00 p.m.

"The above items would certainly appear to be reasonable office hours, and consistent with hours of other public agencies.

"Therefore, we would very much appreciate your presenting us with an opinion which we could present to the Board of County Commissioners relative to the above questions.

With regard to the making of copies of public records, this office has previously indicated that there is no general statutory requirements that such copies be made available either free or at cost. This office has further indicated that a public official may but is not required to make such copies available, but if a determination to make copies available is made, such determination must be exercised uniformly and equitably, i.e., if a request for a copy from one person is granted, a request for a copy from another person should not be denied. See, e.g., a copy of a letter addressed to Orrin H. Croff, Richard County Superintendent of Schools on April 28, 1975, last paragraph of page one.

Insofar as reasonable office hours are concerned, we would agree that availability of records during normal office hours from 9:00 a.m. to 5:00 p.m. would be in compliance with the statute.

I trust this will adequately set forth our position on the questions presented.

Sincerely,

Gerald W. VandeWalle
Chief Deputy Attorney General

Enclosure