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January 2, 2004

SENT BY ELECTRONIC MAIL ONLY

Alan Murray
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Re: Petition for Public Records Disclosure Order:
Oregon Department of Revenue Records
DOJ File No. 150101-GA0093-03

Dear Mr. Murray:

This letter is the Attorney General's order on your petition for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505. Your petition, which we received on December 17, 2003,[1] asks the Attorney General to direct the Department of Revenue to make available: "Oregon Industrial Account Contact Information, Market and Assessed Value information and any other public (non-confidential) information that is contained within the Department's records and/or is disseminated to the Counties within the State of Oregon for ad valorem taxation purposes." For the reasons that follow, we respectfully deny your petition.

The Public Records Law confers a right to inspect any public records of a public body in Oregon, subject to certain exemptions and limitations. *See* ORS 192.420. If a public record contains exempt and nonexempt material, the public body must separate the materials and make the nonexempt material available for examination if it is "reasonably possible" to do so while preserving the confidentiality of the exempt material. *Turner v. Reed*, 22 Or App 177, 186 n 8, 538 P2d 373 (1975).

[1] We appreciate your agreement to extend the time within which the law would otherwise have obligated us to respond.

Premature Petition

The description in your petition of the records you are requesting appears significantly broader than the Public Records Request you made to the Oregon Department of Revenue for a listing of the business names, contact information, real market value and assessed value for all industrial properties assessed by the Department of Revenue. To the extent that your current petition seeks records that you did not request from the Department of Revenue previously, the department has not yet denied that request and your petition is denied as premature.

Mootness of Petition

Additionally, in response to your original request for the business names, contact information, real market value and assessed value for all industrial properties that are assessed by the state for ad valorem property tax purposes, the Department of Revenue determined that it retains some non-confidential public records that contain part of the information you requested. The Assessment and Taxation Standards Section of the Property Tax Division receives voluntary reports from some counties each year after the county tax rolls are completed. These reports are not confidential, and are disclosable under the Public Records Law.

Currently, 24 counties out of 36 in Oregon have sent reports to the department for tax year 2003-04. For those 24 counties, the department previously agreed to disclose to you records containing the following industrial property information: the company name (property owner), mailing address, property address, tax account number, and real market and assessed values of state assessed industrial property. The department previously agreed to make these records available to you upon payment of the charges the department estimates will cover the cost of producing the records. Therefore, to the extent that the Department of Revenue has already agreed to disclose the records you have described in your petition, your petition is denied as moot.

Confidential Records Exemption

ORS 192.502(9) exempts from mandatory disclosure "[p]ublic records or information the disclosure of which is prohibited or restricted or otherwise made confidential or privileged under Oregon law."

Other than the records described above, which the Department of Revenue has already agreed to disclose to you, the department has informed us that any further listing of the industrial property assessed by the department and contact information for those properties is information that the department would derive solely from confidential property tax returns and related records filed with the Department of Revenue pursuant to ORS 308.290. ORS 308.290(7) states in part:

> "All returns filed under the provisions of this section and ORS 308.525 and 308.810 shall be confidential records of the office in which such returns are filed * * *."

Consequently, that information is exempt from disclosure as a public record under ORS 192.502(9) and ORS 308.290(7). Your request is limited to "public (non-confidential) information . . .". Therefore, you have not requested disclosure of records that are confidential under ORS 308.290(7). To the extent that your petition is construed to apply to such records, we deny your petition to compel disclosure.

Finally, the industrial property information you are seeking from the department may be available on the county property tax assessment rolls, which are not confidential records. However, the department is not the custodian of the county property tax rolls, and is not obligated to provide those records under the Public Records Law, ORS 192.410 to 192.505.

We deny your petition for an order directing the Department of Revenue to disclose records held by counties. Requests for those records should be directed to the counties.

Sincerely,

PETER D. SHEPHERD
Deputy Attorney General

AGS13410
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