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ATTORNEY GENERAL

PETER D. SHEPHERD
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE
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August 17, 2001

Larry George
Oregonians in Action
P.O. Box 230637
Tigard, OR 97281-0637

Re: Petition for Public Records Disclosure Order
Governor's Office Records

Dear Mr. George:

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 August 15, 2001, asks the Attorney General to order the Governor's Office to produce copies of:

1. All correspondence and records of correspondence between the Governor, his staff or counsel, and Thomas Christ, or any partners of employees of Christ's law firm;

2. All correspondence and records of correspondence between the Governor, his staff or counsel, and Thomas Christ, or any partners of employees of Christ's law firm;[1]

3. All correspondence and records of correspondence between the Governor, his staff or counsel, and David Schuman.

Under the Oregon Public Records Law, the Attorney General reviews petitions of persons who allege they have been denied access to any public record of a state agency. ORS 192.450. However, the Attorney General's jurisdiction in this area is limited by ORS 192.480, which

[1] In your petition, this item is identical to item #1. In the original records request, item #2 sought "All correspondence and records of correspondence between the Governor, his staff or counsel, and Robert Liberty."

provides in relevant part:

> In any case in which a person is denied the right to inspect or to receive a copy of a public record in the custody of an elected official, or in the custody of any other person but as to which an elected official claims the right to withhold disclosure, no petition to require disclosure may be filed with the Attorney General or district attorney, or if a petition is filed it shall not be considered by the Attorney General or district attorney after a claim of right to withhold disclosure by an elected official. In such case, a person denied the right to receive or inspect a copy of a public record may institute proceedings for injunctive or declaratory relief in the appropriate circuit court, as specified in ORS 192.450 or 192.460 * * * .

You state in your petition that your records request was made to the Governor's Office by letter dated May 2, 2001, and that after receiving no response, you again contacted the Governor's Office by letter dated July 23, 2001, but that you still have had no response.

The Governor is an elected official. Accordingly, if the Governor has denied your records request,[2] this office has no authority to consider your petition; your remedy would be to institute proceedings for injunctive or declaratory relief in the circuit court. ORS 192.480. We therefore respectfully deny your petition for lack of jurisdiction.

Sincerely,

Peter D. Shepherd

PETER D. SHEPHERD
Deputy Attorney General

AGS08407
c: Henry H. Lazenby, Jr., Office of the Governor

[2] Henry H. Lazenby, Jr., Legal Counsel for the Governor, suggests that you call him to find out the status of your records request. Mr. Lazenby may be reached at (503) 378-6246.