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September 1, 2009

Kimberly Petitt
414 N. Vista Terrace
Otis, OR 97368

Re: Petition for Public Record Disclosure Order
Bureau of Labor and Industries Records

Dear Ms. Petitt:

This letter is the Attorney General's order on your petition for disclosure of public records under the Oregon Public Records Law, ORS 192.410 to 192.505. We received your petition for a public records order by electronic mail on August 25, 2009. Your petition asks the Attorney General to direct the Bureau of Labor and Industries (BOLI) to make available for inspection "* * *my complete file on Guarrera, Hughes, Dunstan, and HALC (Housing Authority of Lincoln County) immediately."

For the reasons that follow, we respectfully deny your petition.

As recently as August 18, 2009, you sent a public records request to BOLI for a copy of three complaint files that you identified as:

Kimberly Petitt v. Guarrera Hughes Dunstan
HUD Case No. 10-09-0080-8
Kimberly Petitt v. Housing Authority of Lincoln County
HUD Case No. 10-08-0458-8
And Case No. H-08-09642

On August 24, 2009, BOLI sent you a letter indicating that these cases were transferred to the U.S. Department of Housing and Urban Development (HUD) for investigation and BOLI is no longer in possession of the associated documents. BOLI referred you to an individual at HUD from whom you could request these records under the federal Freedom of Information Act.

The Oregon 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. Public bodies that are custodians of public records are required to make those records available for inspection or copying unless the records are exempt from disclosure by statute. ORS 192.430(1). A "public body" generally includes:

> every state officer, agency, department, division, bureau, board and commission; every county and city governing body, school district, municipal corporation, and any board, department, commission, council, or agency thereof; and any other public agency of this state.

ORS 192.410(3). A public body is a custodian of a public record if it is "* * *mandated, directly or indirectly, to create, maintain, care for or control a public record." ORS 192.410(1)(b).

We have contacted BOLI to discuss the files you requested. We understand that HUD case numbers 10-08-0458-8 and 10-09-0080-8 are references to files created and maintained by HUD. Case number FHAP H-08-09642 is BOLI's file number associated with HUD case number 10-08-0458-8. BOLI also created case file number FHAP H-08-12555, which is associated with HUD case number 10-09-0080-8. However, any records that were in BOLI's possession with respect to these file numbers were transferred from BOLI to HUD on February 20, 2009 for further investigation by HUD. BOLI did not retain a copy of the transferred records. We understand that HUD maintains many records via an electronic tracking system and that BOLI may have access to records maintained on this system in appropriate cases. However, with the exception of a record that BOLI provided to you on August 28, 2009, BOLI does not have any access to the HUD files relevant to your request.

In short, save for the record provided to you on August 28, 2009, BOLI does not have the documents that you have requested or any way of obtaining them. Consequently, we must respectfully deny your petition.

Sincerely,

DAVID E. LEITH
Associate Attorney General

c: Sue Jordan, Bureau of Labor and Industries
Marcia Ohlemiller, Bureau of Labor and Industries