HARDY MYERS
ATTORNEY GENERAL

PETER D. SHEPHERD
DEPUTY ATTORNEY GENERAL



DEPARTMENT OF JUSTICE

1162 Court Street NE
Justice Building
Salem, Oregon 97301-4096
Telephone: (503) 378-4400
TTY: (503) 378-5938

June 16, 2008

Maureen Ferguson
5200 Pioneer Road
Medford, OR 97501

Re: Petition for Public Records Disclosure Order:
Oregon Department of Transportation Records

Dear Ms. Ferguson:

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 June 9, 2008, asks the Attorney General to direct the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation (DMV) to make available an un-redacted copy of the Nevada title to a 1999 Mercedes Benz, VIN # WDBF68FoFX181142. You submitted that document to DMV for purposes of transferring title to this vehicle to you and your son. 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 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).

According to the records you attached with your petition, Robert Reed, the Custodian of Records for the Driver and Motor Vehicle Services Division (DMV) of ODOT, denied your request on the basis that "under Oregon's Record Privacy Laws, ORS 802.175 to 802.195 you do not qualify to receive personal information from DMV records."

The information you requested from DMV is contained within "motor vehicle records" maintained by the agency, as that phrase is defined in state law. ORS 802.175(1). Oregon's

definition of "motor vehicle record" is based on the federal Driver's Privacy Protection Act (DPPA)[1]:

> Any record that pertains to a grant of driving privileges, an identification card issued by the Department of Transportation, a vehicle title or vehicle registration.

The Nevada title pertains to vehicle title and has been submitted to DMV. It is a motor vehicle record for purposes of ORS 802.175(1).

DMV and its employees are generally prohibited from disclosing "personal information about an individual that is obtained by the department in connection with a motor vehicle record." ORS 802.177. Protected "personal information" includes a person's name and address, excluding a five-digit zip code. ORS 802.175(3). Such "personal information" concerning the previous owner appears on the Nevada title. Unless your request qualifies for a statutory exemption from the general rule against disclosure, ORS 802.177 prevents DMV from disclosing that personal information to you. When an agency is prohibited from disclosing information, the information is exempt from disclosure under the Public Records Law. ORS 192.502(9). We must determine whether you qualify for a statutory exemption from the general rule prohibiting disclosure of the personal information appearing on the Nevada title.

In your petition for a Public Records Disclosure Order, you indicate that because you have a financial interest in the vehicle, DMV may disclose the record, including the personal information it contains, pursuant to ORS 802.179(16) which states:

> (16) The department shall adopt rules providing for the release of personal information from motor vehicle records to a person who has a financial interest in the vehicle. Rules adopted under this subsection may include, but need not be limited to, rules establishing procedures for the department to verify the financial interest of the person making the request for personal information.

As required to implement this statutory exemption, DMV has adopted OAR 735-010-0230, which in subsection (1) provides:

> This rule provides for release of personal information from DMV motor vehicle records to a person who has a financial interest in a vehicle, as authorized by ORS 802.179(16). Personal information shall *only* be released by DMV, to a person with a financial interest in a vehicle under ORS 802.179(16), *for use in titling and registration of the vehicle.*

(Emphasis added).[2] Pursuant to this rule, DMV may release personal information to a person with a financial interest in a vehicle only for use in titling and registration of the vehicle. As you

---

[1] The federal Driver's Privacy Protection Act (DPPA) defines "motor vehicle record" to mean: "any record that pertains to a motor vehicle operator's permit, motor vehicle title, motor vehicle registration, or identification card issued by a department of motor vehicles." 18 USC § 2725(1).

explained in your petition, you need an un-redacted copy of the title to provide to your insurance company for purposes other than titling and registering the vehicle. Therefore, the exemption for release of personal information from a motor vehicle record under ORS 802.179(16) is not applicable to you.

Nor do we find any other exemption applicable in this situation. Although you suggest that ORS 802.187(2) permits DMV to release the record to you, that subsection only applies to *your* personal information contained in DMV motor vehicle records: "Nothing * * * prohibits an individual from having access to personal information *about the individual*" (emphasis added). It does not apply to personal information concerning another person, even if that information is located in your file. Pursuant to this statute, the previous owner of the vehicle may obtain a complete copy of the Nevada title because it contains his personal information, but you may not obtain a record containing his personal information unless you provide DMV with notarized written permission from the previous owner that authorizes DMV to release his personal information to you, or else are covered by a separate exemption. Finally, although it appears from your petition that your request relates to a coverage decision by your insurance company, you are not an insurance company that would qualify for the exemption of ORS 802.179(6).[3]

Once you submitted the Nevada title to DMV in order to title and register your vehicle in Oregon, the title became a motor vehicle record as defined in ORS 802.177(1). Although we recognize that you provided that record to DMV and are aware of its contents, the statutory and administrative confidentiality rules make no allowance for this circumstance. Because you do not qualify for any exemption that would permit disclosure, DMV is prohibited from disclosing to you personal information about another individual that it obtains in connection with a motor vehicle record. ORS 802.177. When a state statute prohibits disclosure of public records, those records are exempt from disclosure under ORS 192.502(9). Accordingly, we must deny your petition.

Sincerely,

PETER D. SHEPHERD
Deputy Attorney General

DM308094
c: Robert Reed, DMV Custodian of Records

---

[2] Subsections (2), (3) and (4) of the rule describe how DMV determines a person has a financial interest in a vehicle. Pursuant to subsection (2)(a), a person who is shown to have an interest on the current vehicle title has a financial interest in the vehicle. You are an owner of the vehicle on the Oregon title and therefore have a financial interest in the vehicle for purposes of this exemption.

[3] We express no opinion as to whether the insurance company requiring this document would qualify for this exemption.