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RECEIVED
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D.O.J. GENERAL COUNSEL
SALEM, OREGON

February 20, 2008

Ryan Frank, Staff Reporter
The Oregonian
1320 S.W. Broadway
Portland, OR 97201

Re: Petition for Review of Public Records Request Denial:
Oregon Investment Council/Treasurer Records

Dear Mr. Frank:

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. We received your petition on February 6, 2008.[1] Your petition asks the Attorney General to direct the Oregon Investment Council ("OIC") and the Investment Division of the Office of the State Treasurer, acting for the State Treasurer as investment officer for the OIC, to make available:

> any and all documents supplied to it by Lone Star Funds in relation to Lone Star Fund VI and Lone Star Real Estate Fund.

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." ORS 192.505.

Pursuant to your initial inquiry about information concerning investment by the OIC in Lone Star Fund VI, L.P. and Lone Star Real Estate Fund I, L.P.(collectively, the "Funds"), Ley Garnett, at the Office of the State Treasurer, provided to you at no charge a copy of the Investment Division's recommendation and report to the OIC with respect to investment in the

[1] We appreciate your extension of the time within which the law would have otherwise obligated us to issue an order to February 20, 2008.

Funds and a copy of the recommendation and report from the OIC's consultant, PCA Real Estate Advisors, Inc., with respect to investment in the Funds. On February 1, 2008, you emailed your request for the documents described above. You explain in your petition to this office that you are "seeking any and all documents that would shed light on what type of real estate investments Lone Star will make on behalf of Oregon pension holders."

That same day, Ms. Kate Cooper Richardson, the State Treasurer's Chief of Staff, denied your request for the following reason:

> The documents that you received yesterday regarding Lone Star are indeed the extent of the documents publicly available. All other documents received by the State Treasurer's Office and Oregon Investment Council are exempt from disclosure under ORS 192.502(14) and ORS 192.501(2). Those exemptions relate to investments by the Treasurer or OIC in private funds or assets and to trade secrets, respectively.

We agree that the documents are exempt under ORS 192.502(14) and therefore we do not consider other possible exemptions.

ORS 192.502(14)(a) exempts from disclosure certain records relating to actual or proposed privately placed investments:

> Records of or submitted to the State Treasurer, the Oregon Investment Council, the Oregon Growth Account Board or the agents of the treasurer, council or board relating to actual or proposed investments under ORS chapter 293 or 348 in a privately placed investment fund or a private asset including but not limited to records regarding the solicitation, acquisition, deployment, exchange or liquidation of the investments including but not limited to:
> (A) Due diligence materials that are proprietary to an investment fund, an asset ownership or their respective investment vehicles.
> (B) Financial statements of an investment fund, an asset ownership or their respective investment vehicles.
> (C) Meeting materials of an investment fund, an asset ownership or their respective investment vehicles.
> (D) Records containing information regarding the portfolio positions in which an investment fund, an asset ownership or their respective investment vehicles invest.
> (E) Capital call and distribution notices of an investment fund, an asset ownership or their respective investment vehicles.
> (F) Investment agreements and related documents.

ORS 192.502(14)(b) excepts certain kinds of information from the exemption provided by subsection (a). With a few minor exceptions which will be discussed, the responsive public records do not contain information covered by the exceptions to the exemption.

All of the records you seek meet the criteria of ORS 192.502(14)(a). They have been submitted to the State Treasurer or the OIC by Lone Star. They relate to actual or proposed investments under ORS chapter 293 in a privately-placed investment fund or a private asset. Moreover, the records you seek have additional features discussed in ORS 192.502(14)(a). They relate to solicitation, acquisition and deployment of the investment. They include information concerning portfolio positions of various funds. The responsive records also include investment agreements and related documents. ORS 192.502(14)(a)(C) and (F).

The records you seek contain information relating to the identification of particular funds and to the total amount committed to the Funds, which are subject to disclosure by virtue of ORS 192.502(14)(b)(A) and (B). That same information is contained in the non-exempt documents that you have already received, which means that "the nonexempt material [is] available for [your] examination" as required by ORS 192.505.

Accordingly, we respectfully deny your petition.

Sincerely,

PETER D. SHEPHERD
Deputy Attorney General

AGS21248
c: Kate Cooper Richardson, Chief of Staff, Office of the State Treasurer