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DEPARTMENT OF JUSTICE

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January 28, 2014

Richard L. Koenig
P.O. Box 1031
Sherwood, OR 97140

Re: Petition for Public Records Disclosure Order
Oregon Department of Transportation, Driver & Motor Vehicle Services Division
DOJ File No. 735100-GA0015-14

Dear Mr. Koenig:

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 via emails on various dates in January, 2014, appears to ask the Attorney General to order Oregon Department of Transportation, Driver and Motor Vehicle Services Division, to disclose copies of a number of documents.

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. The law also authorizes a public body to establish fees "reasonably calculated to reimburse it for its actual cost" in making records available. ORS 192.440(3). ORS 192.440(5) authorizes a public body to waive fees if it determines that the waiver is in the public interest "because making the record available primarily benefits the general public." Under ORS 144.220(5), "a person who believes that there has been an unreasonable denial of a fee waiver * * * may petition the Attorney General * * * in the same manner as a person petitions when inspection of a public record is denied."

Your request, first stated in your email dated January 11, 2014, appears to be for a form contested-case notice, pursuant to ORS 183.415(2), that would apply to the suspension of your driving privileges. However, your suspension was ordered pursuant to ORS 809.419(5). As that statute makes clear, suspension under that statute triggers the right to administrative review under ORS 809.440. The statute does not provide for a contested-case hearing under ORS 183.415. Because a suspension under ORS 809.419(5) triggers the right to administrative review rather than a contested-case hearing, there is no contested-case form applicable. ODOT and DMV thus are not in possession of any records pertinent to this request. Accordingly, we deny this request.

We are also in receipt of your November 28, 2013, email to DMV requesting additional public records.

First, you appear to request "the record that says I am compelled to must make a 'written request', on your form in order to obtain the requested material." We are unable to conduct legal research for you in order to point you to a particular rule or statute, but we are advised that other records pertinent to why you must put your requests in writing and on a form exist and that a cost estimate to copy them for you will be provided to you within seven days of this letter. Accordingly, we deny this request as moot.

Second, you requested "the information that conforms with that which DMV is required to provide * * * under subsection (2) of ORS 183.41[5] at (a) through (o)." This request has been addressed above.

Third, you requested "the public record, law or rule, that permits, allows or requires 'the general public', as that term is used at ORS 801.305, to title any vehicles they may use for vehicular travel (ORS 801.450), subsequent to repeal and replacement of OAR 735-022-0120, the original version of the 2/16/05 'optional titling rule'." You appear to be requesting we refer you to a particular statute or rule, but we are unable to perform legal research for you or give you legal advice. We therefore deny this request.

Fourth, you requested "writings that purport to ban my presence and/or calls for information." We are advised by Driver and Motor Vehicle Services Division that voluminous responsive records exist and a cost estimate to produce those documents for you that are not exempt from disclosure will be provided to you within seven days. Accordingly, we deny this request as moot.

Sincerely,

FREDERICK M. BOSS
Deputy Attorney General

MCK:tmt/4939018
cc via email only:
Ron Kramer, ODOT/DMV
Chris Ratliff, ODOT/DMV