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May 8, 2018

Ronald Marcus Leistiko
SID 4339604
2605 State Street
Salem, OR 97301

Re: Petition for Public Records Disclosure Order
Multnomah County Circuit Court, Fourth Judicial District
DOJ File No.: 198040-GA0031-18

Dear Mr. Leistiko:

This letter is the Attorney General's response to your petition for disclosure under the Oregon Public Records Law, ORS 192.311 to 192.478. Your petition, received by this office on May 1, 2018, asks the Attorney General to order the Multnomah County Circuit Court (the "Court") to produce records related to case #091234970 and case #031091339. Your petition explains that you requested these records in two letters mailed on March 21, 2018, yet you had not received a response from the records custodian as of April 26, 2018. Your petition also asks the Attorney General to order the Court to waive any fees associated with the disclosure of the requested records. For the reasons discussed below, we respectfully deny your petition.

The Oregon Public Records Law, ORS 192.311 to 192.431, provides that every person "has a right to inspect any public record of a public body in this state, except as otherwise expressly provided by ORS 192.338, 192.345 and 192.355." ORS 192.314(1). Public bodies have a general duty to respond to records requests "as soon as practicable and without unreasonably delay." ORS 192.329(1). Additionally, as soon as reasonably possible but not later than 15 business days after receiving a request for public records, a public body shall either complete its response or provide a statement that it is processing the request with an estimated completion date. *See* ORS 192.324(2) and 192.329(5). A public body may also request clarification from a requester, which generally suspends its obligation to process the request until it receives clarification. ORS 192.329(4)(a). A requester may petition the Attorney General for an order directing disclosure if a public body fails to comply with the time periods or any other provisions contained in ORS 192.329. ORS 192.407(1)(a)-(c).

A public body may also establish fees reasonably calculated to reimburse it for the actual cost of making records available. ORS 192.324(4)(a). If a public body informs a requester of its

required fees, the obligation to complete its response is suspended until the fee is either paid or waived. ORS 192.329(3)(a). A requester may petition the Attorney General when he or she believes a request for a fee waiver or reduction has been unreasonably denied. ORS 192.324(6).

In light of your petition, we contacted Ms. Barbara Marcille, the Multnomah County Circuit Trial Court Administrator. She confirms the Court received your request for case #091234970 on March 28, 2018. She indicates the Court replied to you on April 19, 2018, requesting you clarify the scope of your request and informing you of the required fee. It appears you did not receive this letter from the Court before filing this petition. Now that you have received notice of the required fee, the Court's obligation to complete its response to you is suspended pending receipt of your payment. Thus, we deny this aspect of your petition because the Court has not denied your request for case #091234970. *See* ORS 192.411(1) (Attorney General may order disclosure only when the records request has been denied).

Regarding your request for case #031091339, the Court has no record of receiving the request.[1] Due to your petition, the Court began processing that request on May 2, 2018. Ms. Marcille notes the Court mailed 839 pages of records to you on March 8, 2018 – including case #031091339 – in in response to a previous request. The Court is now evaluating whether it has already disclosed to you all of the records responsive to your March 21, 2018 request. If additional records exist, the Court will contact you soon with a fee estimate. Because the Court is now processing your request for case #031091339, we deny this aspect of your petition.

We now turn to your request that we order the Court to waive the fees associated with the production of the requested records. The Attorney General's authority under the Public Records Law is limited to reviewing whether a public body unreasonably denied a request for a fee waiver or reduction. ORS 192.324(6). To be clear, absent a denial by a public body, we do not have separate authority to order public bodies to waive fees associated with the production of public records. In this case, because neither of your initial requests asked the Court to waive or reduce its fees, there are no denials for us to review. Consequently, we must deny this aspect of your petition as premature.

Because the Court is processing both of your requests, there has been no denial for us to review. We also lack the authority to order the Court to waive its fees at this time. Thus, we respectfully deny your petition.

Sincerely,

Frederick M. Boss

FREDERICK M. BOSS
Deputy Attorney General

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[1] Although it is not entirely clear, your petition suggests you mailed both requests in a single envelope. In that case, we think it likely your request for case #031091339 was inadvertently overlooked by the Records Supervisor.