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January 5, 2021

VIA EMAIL ONLY: wpco691@gmail.com

Thomas D. DeMartino
7812 Darling St. SE
Salem, OR 97317

Re: Petition for Public Records Disclosure Order
Oregon Department of Revenue
DOJ File No.: 150800-GA0126-20

Dear Mr. DeMartino:

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 asks the Attorney General to order the Oregon Department of Revenue to re-search its records in response to three records requests you made on October 26, 2020, and to order the department "to certify that it has conducted a thorough and exhaustive search." For the following reasons, we respectfully deny your petition.

The Public Records Law confers the right to inspect public records in Oregon, unless such records are exempt under ORS 192.338, 192.345, or 192.355. ORS 192.314(1). Any person denied the right to inspect or to receive a copy of a public record of a state agency may petition the Attorney General to review the record and determine if it may be withheld. ORS 192.411(1). The agency carries the burden to sustain any such denial. *Id*.

Your petition shows that you submitted three records requests for various information related to you. Your first request asked for e-mails sent by a former department employee, Nancy Alderin, that referenced you. Your second request asked for the "individual name, and the authority and purpose" of a phone call placed to you in August or September 2020, or in the alternative, whether there was any unresolved department issue or matter regarding you. And your third request asked for various requests and searches for records related to you, whether made by the department or Ms. Alderin or through a public records request.

On November 3, the department responded that it had found no responsive records. However, a collections letter you later received from the department, as well as e-mails you exchanged with the department, led you to believe that the department in fact had records that were responsive to your requests.

We spoke with two department employees, Jan Jackman, a Compliance Specialist, and Richard Hoover, a Public Information Officer. They told us that the department had interpreted your three records requests to be specific to Ms. Alderin. Because Ms. Alderin worked in the property tax area, the department limited its searches for your second and third requests to that area, as well as to the personal income tax area. Now understanding that your second and third requests are not limited to Ms. Alderin, or just to the property tax or personal income tax areas, the department has re-run its searches and produced any nonexempt, responsive records. The department has also confirmed, for your first request, that there are no responsive records.

We find no evidence in the record before us that the department intentionally withheld records from you. The department did not intend to deny any aspect of your request, and it has now produced its responsive records. We therefore deny that part of your petition as moot. *See* ORS 192.411(1) (in general, the Attorney General may order disclosure only when a records request has been denied). In addition, we deny your petition to the extent it requests that we order the department to certify its search results. You do not point to any authority that requires the department to certify its results, or that grants us the authority to order the department to do so. And, as relevant here, we are unaware of any such authority.

Sincerely,

Frederick M. Boss
Deputy Attorney General

cc via email only: Richard Hoover, Department of Revenue