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personal privacy

DEPARTMENT OF JUSTICE

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May 31, 1990

John Heilman, Manager
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Adult & Family Services Division
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Salem, OR 97310

J.S. Boles
5037 N.E. 22nd Avenue
Portland, OR 97211-5615

Re: **Petition for Public Records Disclosure Order; Adult and Family Services Division Records**

Dear Mr. Heilman and Ms. Boles:

This letter is the Attorney General's order on Ms. Boles' petition for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505. The petition, which we received on May 24, 1990, asks the Attorney General to direct the Adult and Family Services Division (AFS) to disclose the name and address of each employee of the Albina Branch of AFS. For the reasons that follow, we grant the petition in part and deny it in part.

The Public Records Law confers the right to inspect any public record of a public body in Oregon, subject to certain exceptions. ORS 192.420. Under the circumstances presented here, the AFS employees' home addresses fall within an exception to the general rule of public accessibility to government records.

ORS 192.502(2) exempts certain personal information from the disclosure requirements of the Public Records Law. This statute exempts:

> "Information of a personal nature such as but not limited to that kept in a personal, medical or similar file, if the public disclosure thereof would constitute an unreasonable invasion of privacy, unless the public interest by clear and convincing evidence requires disclosure in the particular instance. The party seeking disclosure shall have the burden of showing that public disclosure would not constitute an unreasonable invasion of privacy."

AFS urges that the names and home addresses of employees in its branch offices are information of a personal nature exempt from disclosure under ORS 192.502(2). In Jordan v. Motor Vehicles Division, 308 Or 433, 781 P2d 1203 (1989), the Oregon Supreme Court discussed the elements of ORS 192.502(2) and the application of this exemption to a request for a home address. The court identified two threshhold questions to be answered by the state agency: whether the requested information is of a personal nature, and whether disclosure of that information will constitute an unreasonable invasion of privacy. If both of these questions are answered affirmatively, then the agency must answer a further question: whether the public interest nonetheless requires disclosure in the particular instance. 308 Or at 440.

Applying this analysis, the Jordan court upheld the Motor Vehicles Division's (MVD) refusal to disclose an individual's home address contained in its records. The court held that a home address is personal information, because a home address is information specific to an individual. 308 Or at 441. In determining whether disclosure of such personal information would constitute an unreasonable invasion of privacy, the court looked to the purpose for which the requestor would use the information. The court found that disclosure more likely than not would unreasonably invade the individual's privacy because "providing the information would allow Jordan to harry her incessantly to the extent that an ordinary reasonable person would deem highly offensive." Id. at 442-443.

Having concluded that both of the threshhold requirements for an exemption were established, the court next turned to the question whether Jordan, the "party seeking disclosure", had met his burden of proof to overcome the exemption. The court found that Jordan had offered nothing to prove that the invasion of privacy by disclosure would not be unreasonable or that disclosure was in the public interest. 308 Or at 443. Accordingly, the court held that the individual's home address was exempt from disclosure under ORS 192.502(2). 308 Or at 443.

A person's name is information "specific to one individual," Jordan v. Motor Vehicles Division, supra, 308 Or at 441, and, therefore, is "personal" information under ORS 192.502(2). We do not believe, however, that release of the names of public employees constitutes an unreasonable invasion of privacy. Cf. Guard Publishing Co. v. Lane County

Sch. Dist., 96 Or App 463, 467, 774 P2d 494 (1989), rev'd on other grounds, ___ Or ___, ___ P2d ___ (May 10, 1990) (public school teachers not entitled to be anonymous); Attorney General's Public Records and Meetings Manual 31 (1989) (and authorities cited therein) (information concerning the manner in which public officer or employee carries out the duties of the office or employment not exempt under ORS 192.502(2)). Accordingly, those names must be disclosed.

We conclude, however, that the employees' home addresses are exempt from disclosure. Those addresses are personal information. We also agree with AFS' determination that disclosure of the home addresses would constitute an unreasonable invasion of privacy. We note here that in Ms. Boles' April 23, 1990, letter to AFS she contended that it is inappropriate for AFS to determine "what is, or is not, 'unreasonable invasion of privacy.'" She is mistaken. The Oregon Supreme Court has recognized that this determination is the responsibility of the state agency in the first instance. Jordan v. Motor Vehicles Division, supra, 308 Or at 443 n 9. AFS has informed us that it based its determination on Ms. Boles' candid statements to Albina Branch personnel that her purpose in obtaining the employees' home addresses was to enable AFS clients to abuse AFS employees at their homes. We conclude that, because of Ms. Boles' avowed purpose in fostering the harassment of AFS employees, the release of the employees' home address would constitute an unreasonable invasion of privacy. See Jordan v. Motor Vehicles Division, supra, 308 Or at 442-43.

ORS 192.502(2) also requires us to determine whether, in this particular instance, the public interest by clear and convincing evidence compels disclosure. In a letter to Ms. Boles from John J. Heilman, dated April 11, 1990, AFS offered Ms. Boles an opportunity to provide information that would demonstrate that the public interest requires disclosure of AFS employees' home addresses. Although she is under no legal duty to provide such information, the lack of that information prevents us from finding that the public interest by clear and convincing evidence requires disclosure in this particular instance. See Public Records Order, July 28, 1989 (Schroer). In Jordan, the court reviewed the statutorily authorized uses of MVD records containing addresses in order to determine whether there was an overriding public interest in disclosure. 308 Or at 439, 443. With respect to the home addresses of AFS employees, there are no uses authorized by

statute. Absent any indication to the contrary from Ms. Boles, we are at a loss to understand how the public interest demands the disclosure of home addresses of private citizens whose only connection with the state is their status as employees of a state agency. This conclusion is strengthened because Ms. Boles' avowed purpose in seeking this information is to promote the harassment of these individuals, action which is plainly contrary to the public interest.

We conclude, therefore, that the home addresses of the employees of the Albina Branch of AFS are exempt from disclosure under ORS 192.502(2). However, AFS must disclose the names of those employees. ORS 192.450(2) affords AFS seven days from the date of this order in which to comply. AFS may charge for its actual cost in providing this information to Ms. Boles.

Sincerely,

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