ELLEN F. ROSENBLUM
ATTORNEY GENERAL

LISA M. UDLAND
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE

Justice Building
1162 Court Street NE
Salem, Oregon 97301-4096
Telephone: (503) 378-6002

April 15, 2024

VIA E-MAIL ONLY: info@boroartsupply.com

Paul Bonham
10100 SE Milwaukie St
Milwaukie, OR 97222

Re: Petition for Public Records Disclosure Order
Dep't of Consumer and Business Services - Occupational Safety and Health Division
DOJ File No.: 440500-GA0036-24

Dear Mr. Bonham:

This letter is the Attorney General's response to your petition under the Oregon Public Records Law, ORS 192.311 to 192.478. Your petition asks the Attorney General to order the Oregon Occupational Safety and Health Division of the Department of Consumer and Business Services (OR-OSHA) to disclose the identity of the person who filed an OR-OSHA complaint against you. For the reasons that follow, we 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). The law is a disclosure law, and exemptions from disclosure must be express. Any person denied the right to receive a copy of a public record of a state agency may petition the Attorney General to determine if it may be withheld. ORS 192.411(1). The state agency carries the burden to sustain its actions. ORS 192.411(1).

We discussed your petition with Nicole Zauner in OR-OSHA's Records Management Unit. She explained that OR-OSHA provided records to you in response to a request for the entire complaint file. However, she explained that under ORS 654.062(4), OR-OSHA was required to withhold or redact the complainant's identifying information from the material it disclosed to you because the complaint was filed by an employee who requested confidentiality in writing.

ORS 654.062(4) provides that OR-OSHA "shall establish procedures for keeping confidential the identity of any employee who requests protection in writing." The law also

expressly provides that OR-OSHA may not disclose a complainant's identity under the Public Records Law after receiving a request for confidentiality. *Id*. OR-OSHA's administrative rules also provide that the identity of complainants "shall be kept in confidence" if requested in writing by the complainant, and that any OR-OSHA employee who fails to maintain that confidence is subject to disciplinary action. OAR 437-001-0290(1). Under these provisions, OR-OSHA is required to strictly protect the identity of employee complainants who request confidentiality in writing.

In response to your petition, we confirmed that the complaint in this instance was submitted by an employee who requested confidentiality in writing. OR-OSHA is thus required to maintain the complainant's identity in confidence and is not permitted disclose their identity in response to a public records request. We therefore respectfully deny your petition.

Sincerely,

Lisa M. Udland

LISA M. UDLAND
Deputy Attorney General

ACF\pjn
c via e-mail only: Nicole Zauner (OR-OSHA)