DAN RAYFIELD
ATTORNEY GENERAL

BENJAMIN GUTMAN
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE

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

August 17, 2026

VIA E-MAIL ONLY: fox.oregon@gmail.com

Dan Fox
fox.oregon@gmail.com

Re: Petition for Public Records Disclosure Order
Oregon State Board of Architect Examiners
DOJ File No.: 964001-GA0154-26

Dear Mr. Fox:

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 State Board of Architect Examiners (the "Board") to disclose records related to the Board's investigation of a complaint made by you. The Board denied the request based on the confidentiality provision provided by ORS 671.090(2). For the reasons that follow, 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). The law is a disclosure law and exemptions from disclosure must be express. If a responsive record contains both exempt and nonexempt material, the agency shall separate and disclose the nonexempt material. ORS 192.338. 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 192.401 and 192.411(1).

///

///

///

Your petition stems from a request for all communications and notes concerning the Boards's investigation of a complaint made against an individual and a firm. After receiving your petition, we contacted the Board's Executive Director, Jenny Donovan. She stated that the case investigation records you requested are confidential under ORS 671.090(2)(b), unless the public interest requires release or one of the statutory exceptions applies. Ms. Donovan further explained that the Board closed its investigation without pursuing discipline. As a result, none of the exceptions are implicated.[1] Ms. Donovan said that the only responsive record not covered by the confidentiality statute, a letter of education, was provided. Finally, she noted that the petition did not identify any public interest supporting release of confidential investigative information.

The investigative records you have requested fall with the scope of the exemption provided by ORS 671.090(2)(b), which protects "information the board obtains or receives in an investigation * * *." The records are therefore confidential, unless the public interest requires disclosure in this instance. ORS 671.090(2)(b). In evaluating whether the public interest requires disclosure, we must determine whether the public interest in disclosure outweighs the competing interests in confidentiality, with the presumption favoring disclosure when the parties' interests are of equal value. *See ACLU v. City of Eugene*, 360 Or 269, 280 (2016). The Oregon Court of Appeals has described the public interest in disclosure as the right of the public at large to monitor how public business is conducted and how public officials are performing their jobs. *See Guard Publishing Co. v. Lane County School Dist.*, 96 Or App 463, 469 (1989); and *Jensen v. Schiffman*, 24 Or App 11, 17 (1976).

You assert that disclosure is warranted because the subject of the investigation committed fraud against you. You state that you are planning on filing a motion in court and would like all information you can gather.[2] Although these records may be of personal interest to you, we do not find that their release would inform the broader public in a meaningful way. And, as we have long observed, the "availability of ordinary tools of discovery would generally negate any need for an individual to use the Public Records Law to gain access to records for purposes of pursuing private litigation." *See Attorney General's Public Records and Meetings Manual (Manual)* at 41 (2024). For these reasons, we respectfully deny the petition.

Sincerely,

BENJAMIN GUTMAN
Deputy Attorney General

DEP:pjn:of1
c via e-mail only: Jenny Donovan (OSBAE)

[1] ORS 671.090(2)(b) permits disclosure when the Board sets a hearing or issues findings or a final order. The Board's investigation did not result in a hearing, findings, or order.
[2] You also assert that the Board violated its own statute by not discussing your complaint at its next regular meeting. The Board indicates that the statute you reference, ORS 671.100, does not apply because the subject of the investigation was not a "registered architect" under Oregon law.