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September 21, 2026

VIA E-MAIL ONLY: clarityportland@gmail.com

Amy Kennedy
clarityportland@gmail.com

Re: Petition for Public Records Disclosure Order
Oregon Board of Tax Practitioners
DOJ File No.: 119001-GA0183-26

Dear Ms. Kennedy:

This letter is the Attorney General's response to your petition under the Oregon Public Records Law, 192.311 to 192.431. Your petition asks the Attorney General to order the Oregon Board of Tax Practitioners (OBTP) to waive its fee to produce records pertaining to administrative proceedings involving you. For the reasons discussed below, we respectfully deny the 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). Agencies may establish fees reasonably calculated to recover actual costs in making public records available, but "may furnish copies without charge or a substantially reduced fee if the custodian determines that the waiver or reduction of fees is in the public interest because making the record available primarily benefits the general public." ORS 192.324(4)–(5). Even if waiving or reducing the fee is in the public interest, agencies have discretion whether or not to grant such waivers or reductions. *See In Defense of Animals v. OHSU*, 199 Or App 160, 189 (2005). However, an agency's decision to deny a fee waiver or reduction must be reasonable under the totality of the circumstances. *Id*. at 190. Any person denied a fee waiver or reduction by a state agency may petition the Attorney General for review. ORS 192.324(6). The agency carries the burden to sustain its decision. ORS 192.411(1).

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Your petition stems from a request for "evidentiary materials" and other records related to administrative proceedings involving your license. In response to your request, OBTP provided a fee estimate. You then requested a public-interest fee waiver, which was denied by OBTP. Your petition followed.

Your petition argues that OBTP should have granted the fee waiver because "disclosure would permit public evaluation of agency decision making * * *." You ask the Attorney General to order a complete waiver or substantial reduction "appropriate to the public benefit." After receiving your petition, we contacted Laura Ayers, OBTP's Executive Director. She indicated that OBTP evaluated the information provided in support of your fee-waiver request, and the agency determined that the criteria for a waiver or reduction were not met. She stated that OBTP does not see a significant public interest in these matters that specifically pertain to you.

Agencies considering a request for a fee waiver or reduction must first determine whether making the records available primarily benefits the general public. *See* ORS 192.324(5). The furnishing of public records primarily benefits the public when its greatest utility is to the community or society as a whole. *See In Defense of Animals v. OHSU*, 199 Or App 160, 189 (2005). Pertinent factors include the requester's identity, the purpose for which the information will be used, the character of the information, whether the requested information is already in the public domain, and whether the requester can meaningfully disseminate the information to the general public. *Attorney General's Public Records and Meetings Manual* at 19 (2024). If waiving or reducing processing fees is in the public interest, agencies nevertheless have discretion whether to do so. When evaluating whether an agency's denial of a fee waiver or reduction was reasonable, we consider the character of the public interest in the particular disclosure, the extent to which the fee impedes that public interest, and the extent to which a waiver would burden the public body. *Id*.

We conclude that OBTP acted reasonably in evaluating your request. Although there is a general public interest in evaluating the regulatory actions of all state agencies, we do not perceive any heightened public interest in these regulatory matters pertaining to your license. Furthermore, the information you have provided does not show that you currently have the ability to meaningfully disseminate the records to the general public. We therefore respectfully deny your petition.

Sincerely,

BENJAMIN GUTMAN
Deputy Attorney General

DEP:pjn
c via e-mail only: Laura Ayars (Oregon Board of Tax Practitioners)