DAVE FROHNMAYER
ATTORNEY GENERAL
STATE OF OREGON

JAMES E. MOUNTAIN, JR.
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE

Justice Building
Salem, Oregon 97310
Telephone: (503) 378-4400

August 4, 1989

RECEIVED
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ATTORNEY GENERAL
SALEM, OREGON

Harold H. Berk and Anne S. Berk
P. O. Box 912
Lincoln City, OR 97367

Re: Petition for Public Records Disclosure Order;
Real Estate Agency

Dear Mr. and Mrs. Berk:

This letter is the Attorney General's order on your petition for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505. The petition, which we received on August 2, 1989, asks the Attorney General to direct the Oregon Real Estate Agency and its employes to disclose materials identified in an attached letter dated July 20, 1989, to Morella Larsen, Real Estate Commissioner.

Attached to this order is a copy of the letter of Steve Hawes, Deputy Real Estate Commissioner, responding to your letter of July 20, requesting inspection of records. Mr. Hawes has not denied your request, but in fact granted the request as to all nonexempt public documents. The first group of documents, the hearing file relating to Mrs. Berk, is available for inspection at this time upon compliance with the conditions set forth in Mr. Hawes letter. You have not appeared to inspect these, or any other, documents. Since the conditions established by Mr. Hawes are provided for by rule of the agency (OAR 863-01-010), and appear on their face to allow a proper and reasonable opportunity to inspect (ORS 192.430), there is no denial.

We are also advised by Mr. Hawes that the amount requested for costs is a deposit only, any unused amount will be refunded. Moreover, Mr. Hawes has offered to respond to a letter from you (which he has not received) to itemize the costs. That may enable you to better select the records which you wish to begin to review; the request you have submitted is quite extensive.

Because we conclude that the agency has not denied your request for inspection of public records, we deny your petition.

Sincerely,

PAMELA L. ABERNETHY
Special Counsel to the
Attorney General

PLA:KGD:ros/8378G

cc: Morella Larsen (w/Berk Petition)
Steve Hawes
Real Estate Agency
158 12th Street NE
Salem, Oregon 97310