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April 29, 1993

Mark Hass
KATU Television Center
P.O. Box 2
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Re: Petition for Public Records Disclosure Order:
Executive Department Records

Dear Mr. Hass:

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. Your petition, which we received on April 22, 1993, asks the Attorney General to direct the Executive Department to make available all "phone messages, memos, conditions of employment and results of any management review pertaining to the employment and termination" of Everett Hall, Mike Rodia and Virginia Honeywell from the Office of the State Fire Marshall. For the reasons that follow, we respectfully deny your petition.

The Public Records Law confers a right to inspect any public records of a public body in Oregon, subject to certain exemptions and limitations. See ORS 192.420. However, the Attorney General may order a state agency to disclose records only where the agency first has denied a request for public records. See ORS 192.450(1).

Your petition states that you requested and were denied the records by Cindy Becker at the Executive Department and Sarah Ames in the Governor's office[1/]. Both Ms. Becker and Ms. Ames inform us that they were not asked for phone messages, memos or conditions of employment, but only for the results of the management review that was the basis for the

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[1/] Your petition does not seek a disclosure order directed to the Governor. If an elected official claims the right to withhold disclosure of documents, a petition to require disclosure may not be filed or considered by the Attorney General. ORS 192.480.

the extent to which the information had already been made public. See Public Record Order November 26, 1990 (Nealy/Hogan), Public Record Order January 27, 1992 (Moody).

Under the circumstances presented here, we conclude that the public interest does not require disclosure. Although the three individuals are high level management officials, the confidentiality that they would expect when discipline is imposed is no less than that of any other employee. In contrast to those situations where we have ordered disclosure, these employees were not dismissed as a result of a criminal investigation that produced allegations they misused a public office for private financial gain and in furtherance of a criminal conspiracy, compare Nealy/Hogan Order, supra, nor were they supervisory law enforcement officers disciplined for reasons virtually identical to allegations that resulted in criminal prosecution and criminal sanction, compare Moody Order, supra.

Moreover, the results of the management review in this case has not already been made public. Although it is public knowledge that the three individuals have been terminated as a result of a management decision, the specific reasons for that disciplinary action have not become public knowledge. We find no overriding public interest in depriving these former state employees of their privacy surrounding the reasons for their discipline.

Accordingly, we deny your petition for an order requiring disclosure of the results of the management review. Such records are exempt from disclosure under ORS 192.501(13).

Sincerely,

Elizabeth S. Harchenko

ELIZABETH S. HARCHENKO
Special Counsel to the Attorney General

ESH:AV:jpl/JAA00BC9.W51

cc: Cindy Becker, Executive Department