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September 29, 1993

Jim Cook
Lead Organizer
Oregon Public Employees Union
212 S.E. 18th Avenue
Portland, OR 97214-1598

Re: Petition for Public Records Disclosure Order: Lottery Records

Dear Mr. Cook:

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 September 23, 1992, asks the Attorney General to direct the Oregon State Lottery to make available the home addresses and home telephone numbers of all Oregon State Lottery employees eligible for representation under the Public Employees Collective Bargaining Act. 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. If a public record contains exempt and nonexempt material, the public body must separate the materials and make the nonexempt material available for examination if it is "reasonably possible" to do so while preserving the confidentiality of the exempt material. Turner v. Reed, 22 Or App 177, 1986, n 8, 538 P2d 373 (1975).

ORS 192.502(2) exempts private personal information from the disclosure requirements of the Public Records Law. This provision exempts:

> Information of a personal nature such as but not limited to that kept in a personal, medical or similar file, if the public disclosure thereof would constitute an unreasonable invasion of privacy, unless the

> public interest by clear and convincing evidence requires disclosure in the particular instance. The party seeking disclosure shall have the burden of showing that public disclosure would not constitute an unreasonable invasion of privacy[.]

The purpose of this exemption is to protect the privacy of individuals from unreasonable invasion. Jordan v. MVD, 308 Or 433, 440-42 (1989). The exemption is not intended for the benefit of the public body. Only personal information which would constitute an unreasonable invasion of privacy if publicly disclosed is protected under this exemption. An invasion of privacy would be unreasonable if "an ordinary reasonable person would deem [it] highly offensive." Id. at 442-43.

"Personal" information includes a person's home telephone number. Id. at 441. We believe that the disclosure of unlisted home telephone numbers of employees of the Oregon State Lottery would constitute an unreasonable invasion of their privacy. Based upon the personal privacy exemption, we deny your request with respect to the disclosure of unlisted home telephone numbers.

Shirley Summers, the Executive Assistant and Personnel Manager for the Oregon State Lottery, has agreed to disclose the home addresses of employees who are not supervisory employees or confidential employees. She has also agreed to disclose the home telephone numbers of these employees, except for employees who have unlisted telephone numbers. Accordingly, your petition with respect to the home addresses of lottery employees eligible for representation and the home telephone numbers of eligible employees (other than those having unlisted telephone numbers), is denied because it is moot.

Sincerely,

Elizabeth S. Harchenko

ELIZABETH S. HARCHENKO
Special Counsel to the
Attorney General

ESH:JB:lmb/JGG07DA0
c: Shirley Summers, Oregon State Lottery