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May 7, 1996

Thomas P. Kerr, President
Oregon Park Assets, Inc.
3807 Pasadena Ave., Suite 100
Sacramento, CA 95821

Re: ***Petition for Public Records Disclosure Order: Construction Contractors Board***

Dear Mr. Kerr:

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 May 1, 1996, asks the Attorney General to direct the Construction Contractors Board to make available the "[c]omplaint, investigation and settlement agreement against Fred Sweezer, Jr. dba Progressive Designed Plumbing by Walnut Terrace Apartments (Portland)." For the reasons that follow, we respectfully deny your petition.

The Attorney General may order a state agency to disclose records only when the agency has denied a request for the records. *See* ORS 192.450(1). Your letter to Dale Morgan dated April 10, 1996, states that if you do not receive a response to your request within seven days of the date the Construction Contractors Board received your request that "it will be my understanding that you deny me the right to receive a copy of these public records." It is not a denial of a public records request merely because an agency fails to comply with a deadline the requester seeks to impose. OREGON ATTORNEY GENERAL'S PUBLIC RECORDS AND MEETINGS MANUAL 15 (1995).

Dale Morgan, Claims Examiner for the Construction Contractors Board, informs us that the board has not denied your request for the records. Because the Construction Contractors Board has not denied your request, the Attorney General has no authority to

order disclosure.[1/] *See Morse Bros., Inc. v. Oregon Dept. of Economic Development*, 103 Or App 619 (1990) (agency must have opportunity to act on request before Attorney General can review the matter). Accordingly, your petition is denied as premature.

Sincerely,

Elizabeth S. Harchenko

ELIZABETH S. HARCHENKO
Special Counsel to the
Attorney General

WAR:AV:war:JAA01DDB
c: Kenneth K. Keudell, Administrator, Construction Contractors Board

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[1/] We have discussed your request with Dale Morgan, who advises us that the Construction Contractors Board will provide you with copies of the only claim other than yours that was filed against Mr. Sweezer.