THEODORE R. KULONGOSKI
ATTORNEY GENERAL

THOMAS A. BALMER
DEPUTY ATTORNEY GENERAL



DEPARTMENT OF JUSTICE
1162 Court Street NE
Justice Building
Salem, Oregon 97310
Telephone: (503) 378-4400
TDD: (503) 378-5938

August 30, 1996

James H. Marvin, Attorney at Law
Sievers Building, Suite 102
4730 SW Macadam Avenue
Portland, OR 97201-6417

Re: ***Petition for Public Records Disclosure Order: Oregon Board of Examiners for Engineering and Land Surveying***

Dear Mr. Marvin:

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 August 26, 1996, asks the Attorney General to direct the Oregon Board of Examiners for Engineering and Land Surveying (board) to make available documents related to the board's contested case proceedings regarding Mark Williams and Richard J. Fitterer. 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. ORS 192.450(1). In this case, Bev Holzman, Compliance Officer for the board informs us that on April 17, 1996, she produced documents directly to your client Mark Williams in response to his request dated April 10, 1996. (Copies of this correspondence is enclosed.) Furthermore, in his letter to you dated July 25, 1996, Cort Dokken, Senior Claims Specialist with the Department of Administrative Services, informed you that the board was aware of your records request and was in the process of gathering, evaluating and duplicating the requested materials. (A copy of this letter is also enclosed.)

Ms. Holzman informs us that on August 28, 1996, she requested clarification from you regarding the duplication of particular documents in the board's files. The board

anticipates being able to provide you with copies within 14 days of receiving your response and payment for costs incurred.[1/]

Because the board has not denied your records request and is in the process of providing requested records, the Attorney General has no authority to order disclosure. Accordingly, your petition is denied as premature.

Sincerely,

Elizabeth S. Harchenko

ELIZABETH S. HARCHENKO
Special Counsel to the
Attorney General

ESH:TC:AV:ros/JGG0E669

Enclosures
c: Bev Holzman, Compliance Officer (w/o encl)

[1/] A public body may charge a fee to reimburse it for its actual cost in making records available, including its photocopy costs and the time spent by agency personnel in reviewing and copying the records. *See* ORS 192.440(3).