HARDY MYERS
ATTORNEY GENERAL

PETER D. SHEPHERD
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE
1162 Court Street NE
Justice Building
Salem, Oregon 97301-4096
Telephone: (503) 378-4400
TTY: (503) 378-5938

October 13, 2004

Gary Johansen
120 Glenwood Cir
Roseville, CA 95678

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

Dear Mr. Johansen:

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 October 6, 2004, asks the Attorney General to direct the Real Estate Agency (agency) to provide you with "[t]he OREA public data records of licensees, both individual and company/branch including but not limited to administrative sanctions in machine readable format." 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. Any person denied the right to inspect or receive a copy of a public record may petition the Attorney General to determine whether the record may be withheld from inspection. ORS 192.450(1). The Attorney General may order a state agency to disclose records only when the agency has denied a request for the records. *Id.*

Our office contacted Betty Reynolds, Deputy Real Estate Commissioner, about your petition. Ms. Reynolds told us that the written request you submitted to the agency in June was for "all data on real estate licensees list (CD) plus date of birth, phone number, employer phone number, gender, and administrative actions." Ms. Reynolds provided our office with a copy of the electronic mail correspondence she sent to you on September 9, 2004. In that email, Ms. Reynolds explains that the agency provides the real estate licensee list in CD-ROM format, and she provided you with a phone number to call to order the CD-ROM. After reciting the information contained on the CD-ROM and without making conclusions about possible exemptions, Ms. Reynolds' email explains that providing a record with the additional information you requested would require "customization" by the agency's IT staff.

Through Ms. Reynolds, the agency informed you of how to obtain the real estate licensee list available on CD-ROM. Because the agency has not denied your request for that record, the Attorney General lacks authority to order disclosure. ORS 192.450(1). Therefore, we deny your petition as it relates to information contained on the CD-ROM.

With regard to your request for information not contained on the available CD-ROM, the Public Records Law does not obligate the agency to "develop or acquire new or additional software or programs in order to [electronically] retrieve the requested information." AG'S PUBLIC RECORDS AND MEETINGS MANUAL (2004) at 6. Ms. Reynolds has told us that agency IT staff would need to prepare extensive custom programs to fulfill your request. Because the Public Records Law does not obligate the agency to take this action, the Attorney General lacks authority to order disclosure. Therefore, we also deny this portion of your petition.

Sincerely,

PETER D. SHEPHERD
Deputy Attorney General

PDS:AGS14557
c: Betty Reynolds, Deputy Real Estate Commissioner