



MICHAEL D. SCHRUNK, District Attorney for Multnomah County

1021 SW Fourth Avenue • Room 600 • Portland, OR 97204-1193

Phone: 503 988-3162 • Fax: 503 988-3643 • [www.co.multnomah.or.us/da/](http://www.co.multnomah.or.us/da/)

July 3, 2003

Paul deParrie  
Assistance to Counsel  
539 SE 39<sup>th</sup>, PMB 711  
Portland, OR 97214

Harry Auerbach  
Senior Deputy City Attorney  
Office of City Attorney  
City Hall, Suite 430  
1221 SW 4<sup>th</sup> Avenue  
Portland, OR 97204

Re: Petition of Paul deParrie received June 17, 2003, to disclose certain records of the City of Portland

Dear Mr. deParrie and Mr. Auerbach:

#### BACKGROUND

On this public records petition, ORS 192.410 et. seq., petitioner Paul deParrie requests the District Attorney to order the Portland Parks and Recreation (the Parks Bureau) and its employees to produce “unredacted” copies of the following records:

**[T]he application and other materials relevant to an application for a park use permit by Pride Northwest on or about June 15, 2003.**

Petitioner made his request for the above information at the Parks Bureau on May 2, 2003. He was provided with copies but “two pages contained significant redactions.” According to petitioner, Shawn Rogers told him it was the “policy” to delete the contact information. Petitioner made a request for unredacted copies on May 23 and filed this petition when he received no response from the Parks Bureau.<sup>1</sup>

---

<sup>1</sup> Providing a written explanation to a requester with the rationale for any redaction of a permit application would be prudent. We were troubled by the alleged Parks and Recreation “blanket” policy of non-disclosure of contact information.

July 3, 2003

Senior Deputy City Attorney Auerbach responded to the petition by letter on June 20. The City contended that the information is exempt from disclosure under ORS 192.505(2). Mr. Auerbach pointed out that the information was "substantially the same as that which the Legislature has expressly exempted for public employees and volunteers through ORS 192.502(3(a)). The Parks Reservation Center has determined that the requested information is information of a personal nature."

Information available to the City caused Mr. Auerbach to conclude, "disclosure of the requested information would, in this instance, constitute an unreasonable invasion of privacy." Mr. Auerbach noted that the "party seeking disclosure shall have the burden of showing that public disclosure would not constitute an unreasonable invasion of privacy."

Subsequently, the Portland Parks Reservation Center contacted the "main Contact" for the permit in question. According to Mr. Auerbach, the permit applicant "does not object to the release of his name or the address, secondary phone number or email listed on the Special Use Application Questionnaire. Consequently, I am separately providing Mr. DeParrie with copies of the two documents with that information disclosed."

The City continued to assert the exemption with respect to the "daytime phone number listed on the questionnaire" which is the private home phone number of the main contact, a Mr. Jack Keegan. "He does object to the disclosure of that number as "an unreasonable invasion of his personal privacy."

This office next received two letters from petitioner questioning the nature of the information that caused the City to be concerned with the activities of petitioner as an activist and street preacher. Petitioner noted that as "Assistance to Counsel" he needed the information to pursue future legal action arising from the 2003 Pride celebration. Petitioner argued that the burden of proof was on the City to make an "individualized showing of justification for the exemption."

In a June 30 e-mail, Mr. Auerbach contended that petitioner has sufficient information to contact Mr. Keegan. In the event of litigation, "the discovery process provides a means for Mr. DeParrie's clients to seek the information." The City argued that Mr. Keegan has asserted a privacy interest in his private telephone number and petitioner has not met the burden to overcome the exemption.

DISCUSSION

**Personal Privacy Exemption**

ORS 192.502(2) conditionally 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 not to prevent disclosure of personal information, as such, but rather to protect privacy from unreasonable invasion.” Jordan v. MVD, 308 Or 433, 441 (1989). Only personal information that would constitute an unreasonable invasion of privacy if publicly disclosed is protected under this exemption. In Jordan, 308 Or at 442, the court noted that the trial court found that the affidavit filed in the trial court

...sufficiently established that disclosure to the requester would more likely than not unreasonably invade her privacy because providing the information would allow Jordan to harr y her incessantly to the extent than an ordinary reasonable person would deem highly offensive.

“Personal” information includes a person’s residential telephone number. Id. at 441. Thus, telephone numbers would be subject to the exemption provided that the public disclosure of the numbers would constitute an unreasonable invasion of privacy. This determination must be made on a case-by-case basis. A blanket policy of nondisclosure is not enforceable. Guard Publishing v. Lane County School Dist., 310 Or 32, 38-40 (1990).

The City has determined that the individual’s private telephone number is exempt from disclosure under the personal safety exemption because the individual demonstrated to the satisfaction of the Parks Bureau that his personal safety would be in danger if the number were disclosed. This office is not in a position to second guess the determination of the City that disclosure of the telephone number would allow petitioner and his clients to “harry” the permit applicant. Such a position is entitled to the presumption of correctness.


July 3, 2003

Petitioner was provided an opportunity to prove that public disclosure would not constitute an unreasonable invasion of privacy. Petitioner argues that he is simply an individual who “researches and collects public records data on potential witnesses and/or defendants” as an assistant to attorneys involved in representing persons arrested during public events. Petitioner has sufficient information to identify and locate the permit applicant without his private telephone number. Petitioner has not met his burden.<sup>2</sup>

ORDER

Accordingly, it is ordered that the petition of Paul deParrie to disclose certain records of the Portland Parks and Recreation is denied.

Very truly yours,

  
MICHAEL D. SCHRUNK  
District Attorney

03-05

---

<sup>2</sup> Petitioner has asserted no public interest rationale for the disclosure of the permit applicant’s personal telephone number.