



**ROD UNDERHILL**, District Attorney for Multnomah County

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January 16, 2015

Steve Suo  
The Oregonian  
1500 S.W. First Ave. Suite 400  
Portland, OR 97201

Marvin D. Fjordbeck  
Senior Attorney  
Metro  
600 N.E. Grand Ave.  
Portland, OR 97232

Re: January 5, 2015 petition of Steve Suo for The Oregonian requesting the Multnomah County District Attorney to order Metro to produce a copy of electronic records containing data on tax lot ownership, assessment and geographic boundaries for Clackamas, Multnomah and Washington counties.

Dear Mr. Suo and Mr. Fjordbeck:

### **BACKGROUND**

On this public records petition, ORS 192.410 et seq., petitioner Steve Suo requests the district attorney to order Metro to make available for inspection records that Metro complies and maintains. These include: (1) Metro's current shapefile<sup>1</sup> for all tax lots in Multnomah, Washington, and Clackamas counties, and (2) Metro's current DBF files of tabular data for all tax lots in the three counties.

Pursuant to a written public records request Mr. Suo asked for a copy of these records on December 10, 2014 and was denied on December 18, 2014 by Jim Middaugh, Metro communications director. In his denial, Mr. Middaugh claimed the records were unconditionally exempt under ORS 268.357. On January 13, 2015 Senior Metro Attorney Marvin D. Fjordbeck submitted a very detailed, specific, and technical response to my office explaining why the requested materials fell under the protection of ORS 268.357.

Mr. Fjordbeck asserted that the request for both shapefiles and DBF (database) files is redundant in that in the Geographic Information System (GIS) industry, a request for shapefiles necessarily includes a request for the included DBF files. Having heard no contrary response from the petitioner, for the purpose of this order we will accept Metro's contention. Both parties also agree that the requested records are maintained within Metro's Regional Land Information System (RLIS) that is marketed as a commercial product.

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<sup>1</sup> According to Metro a "shapefile" is a term of art to describe a data format used in storing data in a Geographic Information System (GIS). It is essentially a geospatial format that contains multiple components that contain geographic information.

## DISCUSSION

ORS 268.357 (Authority to sell certain information; marketing agreements; confidentiality):

Subject to the provisions of a district charter, a district may impose and collect reasonable fees based on market prices or competitive bids for geographic data that have commercial value and are an entire formula, pattern, compilation, program, device, method, technique, process, database or system developed with a significant expenditure of public funds. A district may enter into agreements with private persons or entities to assist with marketing such products. Notwithstanding any other provision of law, district software product programming source codes, object codes and geographic databases or systems are confidential and exempt from public disclosure under ORS 192.502 (Other public records exempt from disclosure). Nothing in this section authorizes a district to restrict access to public records through inclusion of such records in a geographic database or system. [1989 c.476 §2; 1997 c.833 §12]

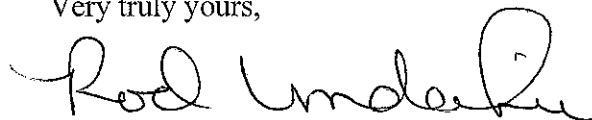
It is without dispute that ORS 268.357 permits Metro to impose fees for geographic data that have commercial value and are an entire formula, pattern, compilation, program, device, method, technique, process, database or system. It is also without dispute that district software product programming source codes, object codes and geographic databases or systems are confidential and exempt from public disclosure. ORS 268.357, ORS 192.502(9). Both parties also agree that the records do not constitute programming source or object codes.

In denying the petition my office agrees with Metro that the requested information is a "geographical database" unconditionally exempt from disclosure. In reaching this decision my office finds it significant that Metro not only obtains data from each county tax assessor but also augments, synthesizes and standardizes the geographic data into a user friendly format (RLIS).<sup>2</sup>

## ORDER

Accordingly, it is ordered that the petition of Steve Suo is denied.

Very truly yours,



ROD UNDERHILL  
District Attorney  
Multnomah County

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<sup>2</sup> Although not determinative of our decision The Oregonian subscribes to RLIS and has access to the requested records.