



ROD UNDERHILL, District Attorney for Multnomah County

600 County Courthouse • Portland, Oregon 97204 • 503 988-3162 • FAX 503 988-3643
www.mcda.us

November 15, 2017

Peter Apanel
2715 S.E. 58th Avenue
Portland, Oregon 97206

Ken McGair
Senior Deputy City Attorney
City Attorney's Office
1221 S.W. Fourth Avenue, Suite 430
Portland, Oregon 97204

Re: Petition of Peter Apanel seeking price information relating to a stadium naming rights agreement

Dear Mr. Apanel and Mr. McGair:

In his public records petition, dated November 3, 2017, petitioner requests that this office order the City of Portland to disclose 2017 price information from the Naming Rights Agreement for Providence Park.

Peregrine Sports, LLC (Peregrine) owns the Portland Thorns and Timbers soccer teams and operates the city-owned stadium used by these teams. As part of the stadium's operating agreement, Peregrine may sell the naming rights to the stadium, subject to certain conditions not relevant here.

Petitioner made a request of the city for contract details showing the amount of money paid each year by Providence Health & Services (Providence), the current owner of the stadium's naming rights, to Peregrine. Initially, the city denied the request, asserting that the price information was a trade secret under ORS 192.501(2). The city has since clarified that it does not actually possess a record with the requested information because Peregrine considers that information to be a trade secret. The copies of the naming rights agreement provided to the city for its review and approval have all price information redacted. Petitioner nonetheless argues that the Stadium Operating Agreement contractually obligates Peregrine to disclose this price information to the city.¹

This office's ability to adjudicate public records disputes stems solely from the statutory grant of authority in ORS 192.460. We do not have the jurisdiction to determine if an agency is required by law to possess any particular record. *Petition of Bartlett*, MCDA PRO 15-24 (2014). In *Bartlett*, we disposed of a similar claim:

Even assuming, as petitioner asserts, that the city is required by law to maintain the precise records that he seeks, the Public Records Law only permits us to order

¹ Petitioner also provides argument as to why ORS 192.501(2) does not exempt the information from disclosure. However, since the City is no longer asserting that exemption, we do not discuss it further here.

Page 2
November 15, 2017
Petition of Peter Apanel

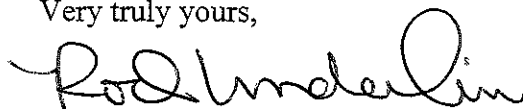
the city to produce records that it actually maintains, that have been formally requested, and for which it has claimed an exemption.

Id. at 3. So too here. The city has not denied a public records request in this case because the public records law does not require agencies to produce records they do not possess.

ORDER

Accordingly, the petition is denied.

Very truly yours,

A handwritten signature in black ink that reads "Rod Underhill". The signature is written in a cursive style with a large, looped "O" at the end.

ROD UNDERHILL

District Attorney

Multnomah County, Oregon

17-57