



ROD UNDERHILL, District Attorney for Multnomah County

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June 4, 2019

Gordon Friedman
The Oregonian
1500 S.W. First Avenue, Suite 400
Portland, Oregon 97201

Re: Petition of Gordon Friedman, seeking an order waiving or reducing fees assessed by the City of Portland for records in the possession of Commissioner Hardesty

Dear Mr. Friedman:

On May 30, 2019 you filed a public records petition with this office in which you asked us to order the City of Portland to waive or reduce its estimated costs associated with a request you made for: “any written public records between Mike Myers, Commissioner Jo Ann Hardesty and Karly Edwards, as well as any other written public records pertaining to Mike Myers in the possession of Commissioner Hardesty or Ms. Edwards.”

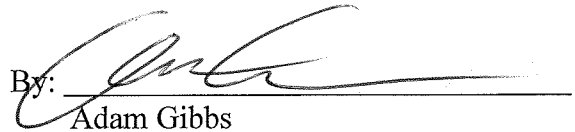
The City had previously granted you a fee waiver as to records in the possession of Ms. Edwards, Commissioner Hardesty’s chief of staff, but denied your fee waiver as to those in the possession of Commissioner Hardesty.

Ordinarily this office has the jurisdiction to review fee waiver matters just as we do denials of records requests. However, where the records that are the subject of the request are in the possession of an elected official this office lacks jurisdiction to review the matter. ORS 192.427 provides that when a public record is in the custody of an elected official “no petition to require disclosure may be filed with the [...] district attorney.” We have previously concluded that this provision applies equally to substantive denials of records request and denials of fee waivers. *Petition of Sullivan*, MCDA PRO 17-41 (2017).

The plain language of your request seeks records in the possession of Commissioner Hardesty. Thus, because Commissioner Hardesty is an elected official, this office may not review the city’s decision not to waive its fee for that portion of your request. Accordingly, your petition is dismissed for lack of jurisdiction.

Regards,

ROD UNDERHILL
District Attorney
Multnomah County, Oregon

By: 
Adam Gibbs
Senior Deputy District Attorney