



MIKE SCHMIDT, District Attorney for Multnomah County

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May 7, 2022

Marie Tyvoll
2020 Sunset Boulevard
Portland, Oregon 97239

Re: Petition of Marie Tyvoll seeking records from Leslie Hammond

Dear Ms. Tyvoll:

You petitioned this office seeking an order compelling Leslie Hammond to respond to your request for records contained in her personal email relating to her time as president of Southwest Neighborhoods, Inc. (SWNI). Counsel on Ms. Hammond’s behalf responded to your request and stated 1) that Ms. Hammond would not be providing you with records and, 2) that she had no current affiliation with SWNI. I agree that, because Ms. Hammond is not, personally, a public body under Oregon law, she has no obligation to respond to your public records request. Further, a request sent to her cannot be considered a request sent to SWNI because she has no ongoing affiliation with that organization.

ORS 192.324 states, in relevant part, “[a] public body that is the custodian of any public record that a person has a right to inspect shall give the person, upon receipt of a written request [...] .” A “public body” is defined as “every state officer, agency, department, division, bureau, board and commission; every county and city governing body, school district, special district, municipal corporation, and any board, department, commission, council, or agency thereof; and any other public agency of this state.” ORS 192.311(4). This statute separately defines “person” as “any natural person, corporation, partnership, firm, association or member or committee of the Legislative Assembly.” ORS 192.311(3). Ms. Hammond is a “person” not a “public body” for purposes of the Oregon Public Records Law.

As you note, Judge Hodson recently determined that SWNI was the functional equivalent of a public body. *Tyvoll v. SWNI*, Mult. Co. Cir. Ct. 20CV35030, Order (J. Hodson, Apr. 4, 2022). The public records law imposes obligations on public bodies, it does not impose obligations on individuals. Assuming SWNI remains a public body, it has an obligation to provide you with non-exempt public records in its custody.¹ ORS 192.324.

The email you forwarded with your petition does not document a public records request made to a public body. It shows that you asked a private individual, who was formerly associated with an entity found to be the legal equivalent of a public body, for records. Because you did not make a public records request of a public body, neither SWNI nor its agents are currently

¹ Given the City of Portland’s decision to defund SWNI and attendant cessation by SWNI of activities in association with the City, SWNI may not continue to meet the necessary criteria to be considered the functional equivalent of a public body. However, for purposes of this order I need not make that determination.

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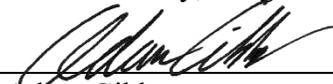
obligated by ORS 192.324 or 192.329 to respond to your request. And, as noted above, Ms. Hammond is not a public body with any legal obligations under these sections.

ORDER

Accordingly, the petition is denied.

Regards,

MIKE SCHMIDT
District Attorney
Multnomah County, Oregon

By: 
Adam Gibbs
Sr. Deputy District Attorney

Cc: Steven Moskowitz

22-17