



**MIKE SCHMIDT**, District Attorney for Multnomah County

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August 25, 2022

Maxine Bernstein  
The Oregonian | OregonLive  
1500 S.W. 1<sup>st</sup> Avenue, Suite 400  
Portland, Oregon 97201

Re: Petition of Maxine Bernstein seeking review of documents withheld from a records production by the City of Portland

Dear Ms. Bernstein:

You petitioned this office seeking an order compelling the City of Portland to provide you with records withheld from a public records request response. You had made a request of the Mayor's office, numbered C236966 by the City and received July 23, 2022, for:

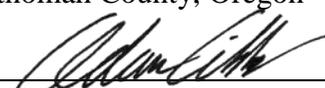
any and all correspondences between the mayor's office and the Police Bureau regarding discussion of what led to the decision to rescind a job offer, or discussion on a decision to rescind the job offer, to Thomas Datro for the PPB's civilian dean of training job

On August 15, 2022 the City provided you with responsive documents, but indicated that it withheld some records pursuant to attorney-client privilege. The City has informed me that this consisted of a single email thread, which I have reviewed. However, the City has also confirmed that this request was specifically directed to the Office of the Mayor. ORS 192.427 is clear that the district attorney lacks the authority to decide a public records petition that involves records in the custody of an elected official. This office has previously held that the records of the Office of the Mayor are within the mayor's custody for purposes of this section. *Petition of Kessler*, MCDA PRO 20-30 ("The jurisdictional force of ORS 192.427 extends to an elected official's immediate staff as well."); *Petition of Tierney*, MCDA PRO 15-15 (2015) (records from the Office of the Mayor are in the Mayor's custody for purposes of ORS 192.427).

As such, I must dismiss this petition for lack of jurisdiction. Recognizing that I would have jurisdiction over an identical request made to the police bureau, and having reviewed the underlying record, I have separately communicated with the parties my preliminary thoughts on its status under the public records law.

Regards,

MIKE SCHMIDT  
District Attorney  
Multnomah County, Oregon

By:   
Adam Gibbs  
Sr. Deputy District Attorney

Cc: Jenifer Johnston