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via email only

Greg Fleisher
gafrn@outlook.com

Ellen M. Van Riper
City Attorney
City of Gresham
ellen.vanriper@greshamoregon.gov

Re: Petition of Greg Fleisher concerning the City of Gresham's denial of a public interest fee waiver

Dear Mr. Fleisher and Ms. Van Riper:

On June 24, 2026, Mr. Fleisher submitted a public records request to the City of Gresham seeking communications among City staff concerning the mailbox right-of-way, vehicular access, neighbor disputes, and accommodation requests associated with his property at 1320 NE 30th Court and the adjacent property at 1342 NE 30th Court. On July 13, 2026, the City issued a fee estimate of \$302.92, consisting of 1.5 hours of attorney time and 1.5 hours of paralegal time to review the responsive records. Mr. Fleisher amended his request and sought a full waiver of fees on July 17, 2026. After receiving his answers to its fee waiver questionnaire, the City denied the waiver on July 27, 2026, concluding that the information he provided did not demonstrate that release would primarily benefit the general public.

On July 28, 2026, Mr. Fleisher petitioned this office, as permitted by ORS 192.324(6), arguing that the City unreasonably denied the waiver because the records bear on Title II ADA compliance, public right-of-way accessibility, and municipal liability, and that the estimate is unlawful because the entire charge is for the City Attorney's review of the City's own records. The City responds that the request seeks records specific to Mr. Fleisher's personal interests and his own residence, and that ORS 192.324(4)(b) expressly authorizes a charge for attorney review time.

For the reasons discussed below, I deny the petition.

DISCUSSION

A. Fee Waiver – ORS 192.324(5)

ORS 192.324(5) provides that,

The custodian of a public record may furnish copies without charge or at a substantially reduced fee if the custodian determines that the waiver or reduction of

fees is in the public interest because making the record available primarily benefits the general public.

A fee waiver serves the public interest only when “the furnishing of the record has utility—indeed, its greatest utility—to the community or society as a whole,” as distinct from “a concern or interest of a private individual or entity.” *In Defense of Animals v. OHSU*, 199 Or App 160, 188-89 (2005). On review, this office does not substitute its judgment for the City’s; it determines only whether the City’s exercise of discretion was objectively reasonable. *Id.* at 190 (“notwithstanding the legislature’s conferral of discretion on the public body, the public body’s decision whether to grant or deny a fee waiver or reduction must be reasonable”); *Petition of Bial*, MCDA PRO 24-33 (2024) (“the legislature has granted public bodies discretion, but their exercise of that discretion must be reasonable”).

The records Mr. Fleisher seeks are, by the terms of his own request, communications “regarding the mailbox right-of-way, vehicular access, neighbor disputes, or accommodation requests associated with my property at 1320 NE 30th Court, Gresham, OR and/or the adjacent/nearby property at 1342 NE 30th Court, Gresham, OR.” The original records request describes the subject as “narrowly tailored to a specific approximate 48-day window involving limited municipal entities and specific named individuals regarding a single localized right-of-way issue.” In the July fee waiver request petitioner elaborated that, among other uses, he intends to use the records in “upcoming federal and state civil litigation.”

That a requester seeks records concerning a dispute at his own residence, for use in his own anticipated litigation, is strong and usually dispositive evidence that the interest advanced by release is a private one. *Petition of Capone*, MCDA PRO 25-53 (2025) (“That a requestor seeks records pertaining to themselves, their family, or their business is strong, and usually dispositive, evidence that the interest advanced by release is primarily a private interest.”); *Petition of Shore*, MCDA PRO 17-53 (2017) (request relating to a “discrete incident involving [requestor] and the public agency” was a “quintessential personal interest request”); ATTORNEY GENERAL’S PUBLIC RECORDS AND MEETINGS MANUAL (2024) at 19 (“If a requester seeks records relating to the requester, a mere allegation that the public body has treated the individual oppressively, absent a broader public interest, does not satisfy the public interest standard.”)

Recasting the request as one about the City’s compliance with federal disability law does not supply the missing public benefit. Almost any resident’s dispute with a city over conditions in the right-of-way abutting their own property could be described as bearing on that city’s obligations under Title II. The standard requires more than a generalized invocation of compliance; it requires that the records’ greatest utility run to the community as a whole. *In Defense of Animals*, 199 Or App at 189. Nor does an allegation that a public official has violated the requester’s own rights establish a public interest. *Petition of Covington*, MCDA PRO 24-60 (2024).

Mr. Fleisher’s stated plan to disseminate the records through “public legal filings, administrative oversight petitions, and public reporting channels” does not carry the request across that line. A demonstrated ability to meaningfully disseminate is one means by which a public body assesses whether providing records to a particular individual will nonetheless have its greatest utility to the public as a whole. ATTORNEY GENERAL’S PUBLIC RECORDS AND MEETINGS MANUAL (2024) at 19 (“Regardless of how interested the public may be in the matter the requested records

relate to, if the requester fails to demonstrate the ability to meaningfully disseminate the information, disclosure will not primarily benefit the public.”) The City could reasonably conclude that filings made in Mr. Fleisher’s own legal proceedings, and an unspecified reference to reporting channels, do not show that ability. *Petition of Raz*, MCDA PRO 23-93 (2023) (articulated intent to turn records over to the media did not demonstrate an ability to “meaningfully disseminate” for purposes of a fee waiver); *Petition of Lian Zhu*, MCDA PRO 25-04 (2025) (stated future intent to create a website to publish data is insufficient).

Applying the objective reasonableness standard of review in ORS 192.324(6), I conclude that the City’s denial of the fee waiver was within the range of legally permissible options.

B. Fee Estimate – ORS 192.324(4)

Mr. Fleisher separately asserts that the estimate is unlawful because the entire \$302.92 is attorney and paralegal review time. ORS 192.324(4)(b) expressly permits a public body to recover “the cost of time spent by an attorney for the public body in reviewing the public records, redacting material from the public records or segregating the public records into exempt and nonexempt records.” What that provision excludes is the cost of an attorney’s time spent determining the application of the public records law. The City’s estimate describes review and redaction of the responsive records, which is what the statute authorizes.

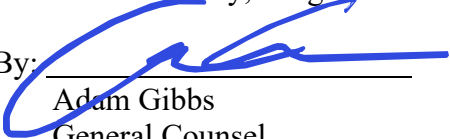
To the extent Mr. Fleisher contends that three hours overstates what this request actually requires, that is not a question I may reach. Under ORS 192.324(6) I may review the reasonableness of the denial of a fee waiver or reduction. I may not determine whether a fee estimate accurately states the cost to produce the records. *Petition of Kessler*, MCDA PRO 23-156 (2023) (“the Attorney General determined that there is no statutory authority for their office, or by extension the district attorney, to review the factual accuracy or reasonableness of a public body’s fee estimate.”)

ORDER

Accordingly, the petition is denied.

Regards,

NATHAN VASQUEZ
District Attorney
Multnomah County, Oregon

By: 

Adam Gibbs
General Counsel