



Nathan Vasquez, Multnomah County District Attorney

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March 3, 2026

via email only

Thomas Eubanks
thomaseubanks@mac.com

Re: Petition of Thomas Eubanks seeking review of the City of Gresham's process for responding to a public records request

Dear Mr. Eubanks,

You submitted a petition to the district attorney on February 28, 2026 in which you ask that we verify the City of Gresham's determination that certain records were not responsive to a public records request. Because I lack the authority to do this, I deny your petition.

Your public records request sought two categories of records from the City, only one of which is at issue here: "all emails, memos, and written communication between Eric Schmidt, the City Manager, and Travis Stovall, the Mayor regarding the purchase of the old Gresham library at 385 NW Miller Ave between the dates of April 1, 2024 and December 31, 2024."

First, ORS 192.427 does not allow public records petitions to be filed with the district attorney concerning public records in the custody of an elected official. *Petition of Wright*, MCDA PRO 16-29 (2016) ("[e]mails generated by or sent to an elected official, as they are retained by his or her agency, remain in the official's custody for purposes of ORS 192.480.^[1]") Such petitions must be filed with the circuit court. To the extent your petition seeks review of the City's withholding of the Mayor's communications, that is not something I may consider.

Second, to the extent your petition challenges the City withholding communications that did not involve the Mayor, those were not within the scope of your request.

I have reviewed the communication between you and the City on this request and do not see anything unusual or inappropriate in how the City approached searching for the records you asked for. Records requests for communications "regarding" a particular topic are impossible to fulfill in any reasonably cost-efficient manner unless refined. The City did exactly what an agency should do in such a case: propose search terms to set the universe of possible responsive documents within which it would then search for the records you sought. They appropriately engaged with you and accepted your revisions to refine those terms. They then searched across all City of Gresham emails and identified 370 that met the agreed search terms.

Early in the process the City Recorder informed you that "it is quite common for email search results to include emails that may contain keywords/search terms but may not be responsive or relevant to your request[.]" That is precisely what happened here. The City reviewed the 370 emails identified by the search and determined that only 10 involved the Mayor and the City

¹ In 2017 Legislative Counsel renumbered ORS 192.480 to ORS 192.427 in 2017 without substantive change.

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Manager. This is a reasonable interpretation of your request for communications “between” the City Manager and the Mayor. The remaining 360 emails may or may not be exempt from disclosure, but your request did not ask that the City produce those records. This is the digital equivalent of flipping through a personnel file in search of a requested termination letter: the remaining documents in the file are not subject to review or challenge simply because they were contained in proximity to the record sought and someone had to look at them to determine they were not responsive. The City did not deny your request. The City fulfilled your request for the 10 documents that met the request parameters.

The public records law does not give the district attorney the authority to “check the work” of a public body by retracing their steps and looking at every document they reviewed during the course of their search. The public records law gives the district attorney the authority to review the denial of a public records request (or fee waiver, or undue delay). ORS 192.324, 192.415, ORS 192.407. The only of these hooks that might apply here is the denial of a public records request. Establishing that a request has been denied is a jurisdictional fact necessary for the district attorney to have any authority to act. The burden of bringing forth such jurisdictional facts lies with petitioner. *Petition of Tyvoll*, MCDA PRO 24-35 (2024) (finding petitioner has burden of establishing that the district attorney has jurisdiction to consider the petition if that is factually in dispute). Speculation that outside review might locate additional responsive records is not sufficient to establish that this office has jurisdiction to review the denial of a records request under ORS 192.415.

ORDER

Accordingly, the petition is denied.

Regards,

NATHAN VASQUEZ
District Attorney
Multnomah County, Oregon

By: 

Adam Gibbs
General Counsel

Cc: sherisa davis-larry, City of Gresham

26-14