

HIDE AND SEEK

Systematic statewide abuse of Oregon public records laws thwarts the people's right to know

BY ALEX V. CIPOLLE

This story begins with a simple request for information. Before long, it veers into murky waters about freedom of information and the public trust, and potential violations of both in Eugene and statewide.

The story ends in a snarl of unfortunate answers with, perhaps, a shard of hope.

Little did we know that one narrow request would end with a tumble down the rabbit hole into the absurd world of public records law in Oregon, leaving us with the question: Do you, as a citizen in a democracy, have the right to know?

This past winter, *Eugene Weekly* submitted a public records request to the city of Eugene in the thick of the Kesey Square controversy, an issue both this paper and *The Register-Guard* had been covering regularly for months.

The controversy in question stemmed from an Oct. 12 executive session — a meeting closed to the public — at which City Manager Jon Ruiz brought a private proposal to purchase the publicly owned Kesey Square, also known as Broadway Plaza, to the Eugene City Council.

In an unorthodox jumping-off point for a property transaction, Ruiz was asking City Council to consider a private offer to buy a city square that had not been deemed surplus land; a city square that had not been publicly listed for sale; a city square of which hundreds of thousands of tax dollars were invested to pave in brick and beautify with art (but, oddly enough, not to maintain it); a city square that had been “forever dedicated to the use of the public” by a 1971 deed.

The interested buyers, a private group led by Rowell Brokaw Architects — the same firm Ruiz handpicked to work on City Hall — wanted to build (and seemingly still does) high-end apartments with ground-floor retail on the square.

Some in Eugene supported the plan to sell

ATTORNEY GENERAL ELLEN ROSENTHAL
HEADS OREGON'S PUBLIC RECORDS TASKFORCE



Kesey Square, calling it an underperforming “empty lot,” but citizens were suspicious of giving up valuable public land, let alone a landmark, in the heart of downtown.

EW had questions about the process, or lack thereof, surrounding this public parcel of land and how such a development proposal came about.

On Jan. 27, 2016, *EW* submitted a public records request for “any emails from or to City Manager Jon Ruiz, Assistant City Manager Sarah Medary, City Planner Nan Laurence, Mayor Kitty Piercy, Eugene City Council regarding: Kesey Square/Broadway Plaza/Broadway and Willamette Parcel; Downtown Solutions Forum; Rowell Brokaw Architects, RFEI for Kesey Square/Broadway Plaza; Ali Emami.” The timeframe was 2015 and 2016.

The city refused to waive the fee, as it has the discretion to do, responding that *EW*’s request was not in the “public interest,” and set the price at \$447.20 for collecting emails.

EW paid the fee Feb. 25 and was told to check back in a week. One week turned into two, two weeks turned into a month, a month turned into — well, as of this issue (May 26), *EW* is still waiting for the entire request — essentially a search for emails containing keywords — to be fulfilled.

To be sure: This story is not about what *EW*’s public records request reveals, but rather what the journey to obtain it does. Eugene’s process for public records is troubling, but it is in no way unique to our city. Eugene, and Lane County for that matter, echo the dysfunction that starts at the state level; call it trickle-down obfuscation.

F IS FOR OREGON

“A 2007 study of government transparency in the 50 states gave Oregon an ‘F.’”

Those are the opening words of the damning 2010 Attorney General’s Government Transparency Report, known among public records wonks as the Kroger Report, after then-Oregon Attorney General John Kroger.

In 2015, the Center for Public Integrity — a nonprofit investigative journalism organization — also gave Oregon an “F” for “public access to information.”

Recently, transparency in government came into sharper relief statewide in the aftermath of the fall of Gov. John Kitzhaber. In its wake in early 2015, the new Gov. Kate Brown ordered an audit of public records via her three ethics reform bills, but many saw the move as two-faced, accusing Brown of delaying a public records request Oracle made for Kitzhaber’s emails while in office — apropos of the lawsuit between the state and Oracle, the tech company behind the comical failure that was the Cover Oregon health insurance website.

Regardless, the audit came back with a message: Oregon’s public records system needs improvement.

Oregon has failed the public records test, but don’t let the decidedly unsexy term “public records” lull you into glazed-over apathy. These aren’t just dusty stacks of documents in a cubicle somewhere, but the paper trail that follows our elected officials, as well as the staff they bestow with the responsibility of carrying out their wills.

Public records can reveal a government body functioning well and above-board.

Or they can tell you where the bodies are buried, who buried them and how much it cost.

Oregon’s current Attorney General Ellen