Index of Public Records Exemptions
Relating to OHCS and other Housing Authorities

Link to Article by Rob Davis:

How Oregon Hides the Details of Affordable Housing Spending — ProPublica

192.345(21) – various info submitted to a housing authority for loans, grants and tax credits

192.355(24) – business, financial & personal info obtained by OHCS for public housing projects

<u>Exemption Statute and Title</u>: 192.345(21) Public Records Conditionally Exempt From Disclosure

<u>Summary</u>: Makes various information submitted by applicants for loans, grants, and tax credits to a housing authority or urban renewal agency conditionally exempt from disclosure.

<u>Relevant Text</u>: 192.345(21) The following public records are exempt from disclosure under ORS 192.311 to 192.478 unless the public interest requires disclosure in the particular instance:

* * *

(21) The following records, communications and information submitted to a housing authority as defined in ORS 456.005, or to an urban renewal agency as defined in ORS 457.010, by applicants for and recipients of loans, grants and tax credits:

(a) Personal and corporate financial statements and information, including tax returns;
(b) Credit reports;
(c) Project appraisals, excluding appraisals obtained in the course of transactions involving an interest in real estate that is acquired, leased, rented, exchanged, transferred or otherwise disposed of as part of the project, but only after the transactions have closed and are concluded;
(d) Market studies and analyses;
(e) Articles of incorporation, partnership agreements and operating agreements;
(f) Commitment letters;
(g) Project pro forma statements;
(h) Project cost certifications and cost data;
(i) Audits;
(j) Project tenant correspondence requested to be confidential;
(k) Tenant files relating to certification; and
(L) Housing assistance payment requests.

<u>Enumerated Exceptions or Public Interest Balancing Test</u>? Yes – not exempt if the public interest requires disclosure in the particular instance.

<u>Applied in Court Cases, AG Opinions and/or Public Records Orders</u>? No.

<u>Exemption Statute and Title</u>: [192.355(24)] Public Records Exempt From Disclosure

<u>Summary</u>: Exempts from disclosure certain business, financial and personal information obtained by OHCS in connection with the department's monitoring or administration of financial assistance or of housing or other developments.

<u>Relevant Text</u>: 192.355(24) The following public records are exempt from disclosure under ORS 192.311 to 192.478:

> * * *
>
> (24) The following records, communications and information obtained by the Housing and Community Services Department in connection with the department's monitoring or administration of financial assistance or of housing or other developments:
>
> (a) Personal and corporate financial statements and information, including tax returns.
> (b) Credit reports.
> (c) Project appraisals, excluding appraisals obtained in the course of transactions involving an interest in real estate that is acquired, leased, rented, exchanged, transferred or otherwise disposed of as part of the project, but only after the transactions have closed and are concluded.
> (d) Market studies and analyses.
> (e) Articles of incorporation, partnership agreements and operating agreements.
> (f) Commitment letters.
> (g) Project pro forma statements.
> (h) Project cost certifications and cost data.
> (i) Audits.
> (j) Project tenant correspondence.
> (k) Personal information about a tenant.
> (L) Housing assistance payments.

<u>Enumerated Exceptions or Public Interest Balancing Test</u>? No.

<u>Applied in Court Cases, AG Opinions and/or Public Records Orders</u>? Yes:

<u>Randal O'Toole, October 6, 2023 - Oregon Attorney General Public Records Orders - State of Oregon Law Library Document Collections</u>

- [W]e conclude that the Legislative Assembly has authorized OHCS to withhold from the public all housing project statements relating to financial assistance, housing or other developments that are monitored or administered by OHCS and that reflect certain financial assumptions, anticipated facts, or other future projections about those developments. With this understanding, we cannot escape the conclusion that the redacted spreadsheet is a "project pro forma statement" within the meaning of ORS 192.355(24)(g). OHCS has styled it as a pro forma statement, and it consists of the applicant's assumed, anticipated, and projected development costs, fees, loan requirements, operating expenses, subsidies, credits, and revenues. And because the pro forma statement relates to OHCS' administration of a financial assistance program – i.e., an application for low-income housing tax credits – we conclude that OHCS was permitted to withhold the spreadsheet in its entirety under ORS 192.355(24)(g). That is the case regardless of whether we might agree with your arguments that disclosure of this kind of information would serve significant public interests. Whatever the merits of such arguments, and whatever the practices might be at other public housing agencies, the Oregon Legislative Assembly has made these types of OHCS records unconditionally exempt from disclosure.