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"It's Not Just A Good Idea—It's The Law!"

September 21, 2009

David Leith, Associate Attorney General
Oregon Department of Justice
State of Oregon
1162 Court Street, NE
Salem, OR 97301-4096

Via electronic mail.

Dear Associate Attorney General Leith:

Thank you for your phone call this morning. It was very nice to hear that you are conducting an internal review of how documents such as the Attorney General's Public Records and Meetings Manual are being produced and distributed. It was also good to hear that this review was one of the initial tasks that Attorney General Kroger asked to be conducted when he first took office, a strong symbol of his commitment to an open process.

I am sympathetic with the fact that production of these manuals is partially funded through the fees from sales of printed copies. As we discussed, my experience has been that at least initially sales do not necessarily go down if you also make the documents available electronically. This is particularly the case if the official version is the printed manual, as many legal professionals will happily buy the official certified book just to be safe. Assertion of copyright is not necessary, and is certainly contrary to long-standing public policy in the United States that such materials need to be broadly available.

You had requested that I consider withdrawing my formal request for purchase of copies of 4 key publications from your office. I understand that by stating that we would be posting these documents on-line, this becomes a public records request and starts a clock ticking.

Needless to say, it would be my pleasure to provide any advice I can as you conduct your review. As we discussed, I've spent considerable time over the last 25 years dealing with exactly these kinds of issues. If you and Attorney General Kroger have a few minutes to meet with me the next time I am in Oregon, that would be wonderful, and I'd be more than happy to put my request of September 18, 2009 in abeyance for 90 days so that we can have some time to schedule a meeting.

Sincerely yours,

Carl Malamud
President & CEO
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