



**RETIREMENT
SYSTEM**

Dir. Line: (714)569-4885
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*Serving the Active and
Retired Members of:*

August 20, 2009

CITY OF SAN JUAN
CAPISTRANO
(includes Capistrano
Valley Water District)

**Tony Saavedra, Reporter
The Orange County Register
625 N. Grand Avenue
Santa Ana, CA 92701**

COUNTY OF ORANGE

Re: Public Records Act Request

CYPRESS RECREATION
AND PARK DISTRICT

Dear Mr. Saavedra:

FOOTHILL/EASTERN/
SAN JOAQUIN HILLS
TRANSPORTATION
CORRIDOR AGENCY

Orange County Employees Retirement System ("OCERS") is in receipt of your Public Records Act request dated August 20, 2009. Your request asks for the name, pension amount, and agency last worked for all retirees who receive a benefit from the Orange County Employees Retirement System ("OCERS"). You also question why OCERS is not following the decision by the Contra Costa County Superior Court denying a preliminary injunction and ordering release of names and pension amounts for beneficiaries of the Contra Costa County Employees Retirement Association.

ORANGE COUNTY
CEMETERY DISTRICT

ORANGE COUNTY
EMPLOYEES
RETIREMENT SYSTEM

The Order Denying Plaintiff's Motion for Preliminary Injunction and Dissolving Temporary Restraining Order ("Order") is not applicable to OCERS for several reasons.

ORANGE COUNTY FIRE
AUTHORITY

ORANGE COUNTY LAW
LIBRARY

First, the court in Contra Costa County has no jurisdiction over OCERS. OCERS was not a party to the lawsuit that resulted in the Order. Since OCERS never appeared in that action and the Order concerns only the Contra Costa County Employees Retirement Association, the court's order has no binding effect on OCERS.

ORANGE COUNTY
TRANSPORTATION
AUTHORITY

ORANGE COUNTY VECTOR
CONTROL DISTRICT

Second, the Order states "plaintiff does not claim to fall within any of the exemptions listed in Gov. Code § 6254." OCERS does claim that its member records are subject to exemptions listed in § 6254. Specifically, § 6254 (k) exempts records that have a state or federal statute prohibiting disclosure. The list of statutes prohibiting disclosure begins in Gov. Code § 6276. Government Code § 6276.12 specifically exempts individual member records of members of county retirement systems pursuant to Gov. Code § 31532.

SANITATION DISTRICT OF
ORANGE COUNTY

ORANGE COUNTY
DEPARTMENT OF
EDUCATION
(closed to new
members)

Pursuant to Government Code § 31532, the records of individual members of OCERS are protected from disclosure.

UCI MEDICAL CENTER
(closed to new
members)

Specifically, Gov. Code § 31532 states in its entirety, "Sworn statements and individual records of members shall be confidential and shall not be disclosed to anyone except insofar as may be necessary for the administration of this chapter or upon order of a court of competent jurisdiction, or upon written authorization of the member."

OCERS considers the names and benefit amounts of our members to be individual member records. Therefore, the data you requested is protected from disclosure. Disclosure of these records is not necessary for the administration of the County Employees Retirement Act of 1937 or OCERS. Therefore, OCERS cannot release the data without court order or authorization from the affected members. Since we have not received a court order nor written authorization from affected members, we will not be able to honor your request.

This interpretation of the applicable law has been OCERS' legal staff's consistent position throughout our communication with your office and your attorney. While we reviewed the Contra Costa County Superior Court ruling with interest and considered the points raised by the court, OCERS attorneys did not agree to be bound by the ruling of a court that does not have jurisdiction over OCERS.

Should you wish to modify your request by requesting only the gross benefit payments made to members without names attached, we will consider the request and disclose the appropriate data.

You may also find OCERS Comprehensive Annual Financial Report ("CAFR") and OCERS By the Numbers helpful since these documents provide comprehensive data regarding OCERS assets and liabilities. These documents are publicly available on the OCERS website located at www.ocers.org. The CAFR is located on the Finance and Investments page while OCERS By the Numbers is located in the Newsroom section of the website.

Thank you for your understanding in this matter. Should you have any questions, please contact me at your convenience.

Very truly yours,

ORANGE COUNTY EMPLOYEES
RETIREMENT SYSTEM



David H. Lantzer
Attorney at Law