

Hayes ruling sends message to officials

In the spirit of celebrating even small victories toward a more transparent state government, let's hear it for Marion County Circuit Judge Tracy Prall, who last week rejected arguments that former first lady Cylvia Hayes wasn't a public official.

In a common-sense ruling on Wednesday, Judge Prall concluded what was obvious to anyone who watched the administration of former Gov. John Kitzhaber over its last few years: Hayes was doing significant work on the public's behalf out of the governor's office. The judge's conclusion that Hayes was a public official has another implication as well: It means that Hayes is subject to the Oregon Public Records Law.

As a result, Hayes must now let the judge review her personal emails to determine which ones cover matters of public interest; those emails must be disclosed.

EDITORIAL

The claim that Hayes was not a public official was ludicrous on its face, and Prall makes short work of it in the decision, noting that Kitzhaber "authorized, encouraged and allowed" Hayes to "participate actively in the executive branch of government."

Prall also notes that Hayes performed functions similar to the functions performed by policy advisors in the governor's office.

Prall's ruling says that Hayes "led the Oregon Prosperity Initiative, did significant work toward Oregon's adoption of the 'Genuine Progress Indicator' (GPI) as a measure of policy outcomes, regularly participated in high level executive branch meetings, orchestrated meetings

of state officials, and directed state employees in their work."

Welcome as it is, the ruling itself has limited import, for a couple of reasons: First, it's a circuit court ruling, not a ruling from the state Supreme Court. And, second, this likely is the last time a first lady (or first spouse, or first partner or first whatever) can claim he or she is not a public figure: One of the ethics reforms pushed by Gov. Kate Brown and endorsed this year by the Legislature makes it clear that a first spouse is, in fact, a public figure.

But the ruling may have a long-reaching effect on another front: It sends a message to public officials who attempt to use personal email systems to conceal government business. In the Hayes case, The Oregonian newspaper seeks state-related emails that Hayes wrote on her personal or business

email accounts. (Earlier this year, Brown released 94,000 emails that Hayes exchanged from her private accounts with state employees; The Oregonian case involves other emails she wrote that have yet to be disclosed. Frankly, the release of the first batch of emails only strengthened the case for the release of the remaining documents.)

We suspect that other public officials may well be tempted from time to time to slip into their personal email accounts to fire off a sensitive note or just to keep a public matter shielded from the public. Prall's ruling suggests that public officials cannot hide so easily: If an email involves the public business, it's a public document, regardless of the account from which it originated. That's a message that public officials need to hear, loud and clear, and it's a welcome message indeed.