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Form not required for public records, court rules

Panel backs Union County citizens group, strikes standardized request

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A state appeals court today struck down the use of standardized request forms many towns and counties require citizens to fill out to view public records, saying letters, faxes and even e-mails containing the specific request suffice under the state's Open Public Records Act.

Standardized forms go against the legislative intent behind OPRA to give the public "unfettered access to government records," the appeals panel said.

In doing so, it sided with a watchdog group that has battled for years over public documents with officials in Democrat-controlled Union County. The county had argued it felt compelled to adopt a standardized form in 2006 when it was recommended by the Government Records Council.

The council, which was created under OPRA to review disputes over records requests, endorsed the use of standardized request forms, contending they help government agencies meet large demands for records. The council also contended such forms help government agencies avoid penalties OPRA attaches to untimely responses for public information.

"Nevertheless, these legitimate policy concerns must cede to the broader policy of governmental transparency and the right of citizens to have open and virtually unfettered access to government records," the appeals court ruled. "These policies can be harmonized. This requires a balancing of the need for specificity for the custodian (agency holding the records) and the overarching objective of OPRA to insure public access to records."

The court sided with the Union County Watchdog Association, its leader Tina Renna and the New Jersey Press Association, who said a standardized government form was never intended by the Legislature when it adopted OPRA and a requirement that requests be put in writing.

The decision overturns a September 2007 ruling by Superior Court Judge Kathryn Brock in Elizabeth, who upheld the standardized forms. She found the often murky wording of OPRA appeared to require forms, because it also requires people seeking records do so with a written request in which they clearly identify themselves and the records sought.

The legality of the forms came into question when Renna e-mailed a request in March 2006 for documents, and Union County sent back its standardized form, requiring she resubmit her request in accordance with the form.

Renna and other members of the watchdog group, who have accused the county of using OPRA to create a bureaucracy that delays the production of records for public scrutiny, filed a lawsuit which the press association later joined.

"I'm glad the courts have finally held that my 2006 e-mail record request was valid and shot down the stifling bureaucracy of having to obtain an official form. Citizens should have quick and easy access to public records. They belong to us," said Renna in a prepared statement.

"This decision will mean easier access to public records. That's what the Legislature intended when they wrote in OPRA's first sentence that public records should be 'readily accessible,'" said Richard Gutman, Renna's attorney, in the statement.

Union County contends the process had simplified the open records procedure for residents.

"The procedure worked well when used by thousands of people who received their requested public records. The fact is this procedure is timely and efficient, and the only one who ever complained about it was the one individual who filed yet another lawsuit that wasted taxpayers' money," said county spokesman Sebastian D'Elia.

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