

COURT OF APPEALS OF MARYLAND

Police Patrol Security Systems, Inc. v. Prince George's County, 378 Md. 702

838 A.2d 1191 (2003) · No. No. 29, Sept. Term, 2003 · Decided December 18, 2003

SUMMARY

The Maryland Court of Appeals held that a Prince George's County ordinance could not independently make alarm-registration information confidential for purposes of the Maryland Public Information Act. The court concluded that the county's initial justification for withholding the records was legally insufficient and remanded for a new determination under the MPIA, including consideration of a 2002 public-security-documents amendment.

CASE DETAILS

COURT	Court of Appeals of Maryland
WRITING FOR THE COURT	Harrell, J.; Bell, C.J.; Eldridge, J.; Raker, J.; Wilner, J.; Cathell, J.; Battaglia, J.
JURISDICTION	Maryland
DECIDED	December 18, 2003
DOCKET	No. 29, Sept. Term, 2003
DISPOSITION	vacated
PROCEDURAL POSTURE	Police Patrol sought judicial review and injunctive relief under the Maryland Public Information Act after Prince George's County denied its request for alarm-registration records. The Circuit Court for Prince George's County upheld the denial. The Court of Appeals of Maryland granted certiorari before the Court of Special Appeals decided the appeal.
STANDARD OF REVIEW	The court reviewed the legal sufficiency of the County's asserted basis for withholding the records de novo. It also declined to substitute its judgment for the County's discretionary determination under the permissive public-security exemption.
PRECEDENTIAL VALUE	Published precedential opinion of the Court of Appeals of Maryland
PARTIES	Police Patrol Security Systems, Inc. v. Prince George's County

TOPICS

statutory interpretation municipal law administrative law judicial review of agency action
appellate procedure

PRACTICE AREAS

administrative law municipal law public records statutory interpretation appellate procedure

QUESTIONS PRESENTED

1. Whether the County's local alarm-registration ordinance could make the requested records confidential or privileged under the Maryland Public Information Act and thereby require their nondisclosure.
2. Whether the County's asserted personal-information, public-interest, or privacy theories supplied an independent basis for withholding the records.
3. Whether the 2002 Maryland Public Information Act amendment concerning public-security documents applied to the pending request and required the County to reconsider it.
4. Whether the appellate court could affirm on an alternative ground that required the County to exercise discretion in the first instance.

HOLDINGS

1. A county ordinance may not make a public record privileged or confidential for purposes of the Maryland Public Information Act unless a qualifying source of law identified by the Act, such as a State or federal statute, regulation with the force of law, court rule, court order, or constitutional provision, does so or authorizes the exemption. Prince George's County's ordinance therefore was not a legally sufficient basis for denying Police Patrol's request.
2. The Maryland Public Information Act contains no discrete general 'personal information,' 'unwarranted invasion of privacy,' or catchall public-interest exemption. A custodian must identify a specific statutory or other legally authorized basis before withholding a public record.
3. The 2002 amendment to Maryland Public Information Act section 10-618(j), which permits discretionary withholding of specified public-security records when disclosure would jeopardize security, facilitate terrorist-attack planning, or endanger physical safety, applied to Police Patrol's still-pending request for current information.
4. The court could not determine the County's discretionary entitlement to withhold the records under the 2002 amendment in the first instance. The matter had to be remanded so the County could make a new determination under the current Act.

KEY QUOTATIONS

"Accordingly, a local law or ordinance may not make a particular public record or piece of public information "privileged or confidential" for the purposes of the MPIA unless one of the sources of law listed in § 10-615(2) does so or authorizes such." (1199)

“Nonetheless, a records custodian still must find some basis in law for the denial of a request before choosing to withhold public records.” (1200)

“On remand, the County should take § 10-618(j) into account when considering Police Patrol's still pending request.” (1204)

FACTUAL BACKGROUND

Police Patrol, a Virginia corporation authorized to do business in Maryland, installs and monitors electronic security and alarm systems. In 2001, it requested from Prince George's County the names, addresses, and telephone numbers of every resident or business maintaining an electronic security or alarm system registered with the County Police Department. The County maintained those records under an ordinance requiring alarm-system registration and restricting inspection of permit information to specified police and County employees. The County denied the request on the ground that the ordinance made the information confidential.

PROCEDURAL HISTORY

Police Patrol requested the names, addresses, and telephone numbers of county residents and businesses registered as users of alarm systems. The County denied the request under a local ordinance declaring alarm-permit information confidential. The circuit court denied Police Patrol's request for an injunction, and Police Patrol appealed. The Court of Appeals held that the ordinance was not a legally sufficient basis for withholding the records, vacated the circuit court's judgment, and remanded for the County to reconsider the request under the Maryland Public Information Act, including its 2002 public-security-documents amendment.

DISPOSITION

vacated

REMAND INSTRUCTIONS

Vacate the judgment of the Circuit Court for Prince George's County and remand with instructions for that court to remand the matter to Prince George's County. The County must reconsider Police Patrol's request under the current Maryland Public Information Act, including section 10-618(j), and exercise its own discretion regarding any public-security withholding.

CASES CITED

- Police Patrol v. Prince George's County, 376 Md. 49, 827 A.2d 112 (2003)
- Caffrey v. Dep't of Liquor Control, 370 Md. 272, 805 A.2d 268 (2002)
- Montrose Christian Sch. Corp. v. Walsh, 363 Md. 565, 770 A.2d 111 (2001)
- Office of the Governor v. Washington Post Co., 360 Md. 520, 759 A.2d 249 (2000)
- Baltimore Sun Co. v. Mayor & City Council of Baltimore, 359 Md. 653, 755 A.2d 1130 (2000)
- Office of the Attorney General v. Gallagher, 359 Md. 341, 753 A.2d 1036 (2000)
- Office of the State Prosecutor v. Judicial Watch, Inc., 356 Md. 118, 737 A.2d 592 (1999)
- Harris v. Baltimore Sun Co., 330 Md. 595, 625 A.2d 941 (1993)

- Dorsey v. Bethel A.M.E. Church, 375 Md. 59, 825 A.2d 388 (2003)
- Kirwan v. The Diamondback, 352 Md. 74, 721 A.2d 196 (1998)
- Allstate Ins. Co. v. Kim, 376 Md. 276, 829 A.2d 611 (2003)
- Southwest Ctr. for Biological Diversity v. United States Dep't of Agric., 314 F.3d 1060 (9th Cir. 2002)
- Spielman v. State, 298 Md. 602, 471 A.2d 730 (1984)
- Beard v. State, 74 Md. 130, 21 A. 700 (1891)
- Fioretti v. Maryland State Bd. of Dental Exam'rs, 351 Md. 66, 716 A.2d 258 (1998)

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