

SUPREME COURT OF WASHINGTON

Hangartner v. City of Seattle; Citizens Against the Monorail v. Seattle
Popular Monorail Authority, 151 Wash. 2d 439

90 P.3d 26 (2004) · No. No. 73930-7 · Decided May 13, 2004

SUMMARY

The Washington Supreme Court considered consolidated public disclosure requests involving the City of Seattle and the entity responsible for planning a proposed Seattle monorail. The court held that a request for all agency books, records, and documents was overbroad, that public debate alone did not establish a controversy under the Public Disclosure Act, and that records protected by the statutory attorney-client privilege are exempt from disclosure. The court reversed and remanded the Hangartner matter for a determination whether the withheld documents were privileged and reversed the Citizens matter based on the overbreadth of the request.

CASE DETAILS

COURT	Supreme Court of Washington
WRITING FOR THE COURT	Alexander, C.J.; Ireland, J.; Bridge, J.; Owens, J.; Fairhurst, J.; Johnson, J.; Sanders, J.; Madsen, J.; Chambers, J.
JURISDICTION	Washington
DECIDED	May 13, 2004
DOCKET	No. 73930-7
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Consolidated review of public-disclosure litigation certified by the Washington Court of Appeals to the Supreme Court of Washington.
STANDARD OF REVIEW	Public Disclosure Act agency actions are reviewed de novo; the Supreme Court stands in the same position as the trial court.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	City of Seattle, Seattle Popular Monorail Authority, Harold Robertson v. Rick Hangartner, Citizens Against the Monorail

TOPICS

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QUESTIONS PRESENTED

1. Whether a Public Disclosure Act request for all of an agency's books, records, and documents is impermissibly overbroad.
2. Whether public debate or a litigation-charged atmosphere surrounding a transportation project constitutes a controversy under RCW 42.17.310(1)(j).
3. Whether documents protected by the statutory attorney-client privilege are exempt from disclosure under the Public Disclosure Act's other-statute exemption.

HOLDINGS

1. A valid Public Disclosure Act request must identify the desired documents with reasonable clarity; a requester cannot satisfy that requirement by simply requesting all of an agency's books, records, and documents. An agency is excused from complying with such an invalid request.
2. The controversy exemption applies to records relevant to completed, existing, or reasonably anticipated litigation; mere public debate or a litigation-charged atmosphere is insufficient.
3. Documents protected by the attorney-client privilege codified in RCW 5.60.060(2)(a) are exempt from disclosure under the Public Disclosure Act's other-statute exemption in RCW 42.17.260(1), regardless of whether they relate to a controversy under RCW 42.17.310(1)(j).

KEY QUOTATIONS

“We hold, therefore, as did the Court of Appeals in Wood, that a proper request under the PDA must identify with reasonable clarity those documents that are desired, and a party cannot satisfy this requirement by simply requesting all of an agency's documents.” (151 Wash. 2d at 451)

“We hold, therefore, that the trial court did not err in determining that the light rail documents were not exempt under RCW 42.17.310(1)(j).” (151 Wash. 2d at 452)

“Because RCW 5.60.060(2)(a) is unquestionably a statute other than RCW 42.17.260(6), 42.17.310, or 42.17.315 that prohibits the disclosure of certain records, documents that fall under RCW 5.60.060(2)(a) are exempt from the public disclosure act.” (151 Wash. 2d at 455)

FACTUAL BACKGROUND

Rick Hangartner requested records relating to a proposed Seattle ordinance concerning temporary structures and uses for construction of a light-rail system, and later requested records concerning an alcohol-impact area. The City produced most records but withheld six documents, asserting the Public Disclosure Act controversy

exemption and attorney-client privilege. Citizens Against the Monorail requested from the Elevated Transportation Company "all books, records, documents of every kind and the physical properties" relating to a proposed Seattle monorail initiative; the agency produced records on a rolling basis and withheld others under claimed exemptions.

PROCEDURAL HISTORY

In *Hangartner*, the King County Superior Court granted summary judgment compelling the City of Seattle to disclose withheld light-rail and alcohol-impact-area documents, and the Court of Appeals accepted review. In *Citizens Against the Monorail*, the superior court ordered the Elevated Transportation Company to produce broad categories of records, and the Court of Appeals granted discretionary review and consolidated the matters. The Court of Appeals certified the consolidated cases to the Washington Supreme Court, which accepted certification.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

In *Hangartner*, the trial court must determine whether the six withheld documents are covered by the attorney-client privilege. The *Citizens* judgment was reversed because the request was overbroad; the court did not reach the remaining exemption arguments.

CASES CITED

- *O'Connor v. Dep't of Soc. & Health Servs.*, 143 Wash. 2d 895, 25 P.3d 426 (2001)
- *Bonamy v. City of Seattle*, 92 Wash. App. 403, 960 P.2d 447 (1998), review denied, 137 Wash. 2d 1012, 978 P.2d 1099 (1999)
- *Wood v. Lowe*, 102 Wash. App. 872, 10 P.3d 494 (2000)
- *State v. J.P.*, 149 Wash. 2d 444, 69 P.3d 318 (2003)
- *Dawson v. Daly*, 120 Wash. 2d 782, 845 P.2d 995 (1993)
- *Confederated Tribes v. Johnson*, 135 Wash. 2d 734, 958 P.2d 260 (1998)
- *In re Marriage of Gimlett*, 95 Wash. 2d 699, 629 P.2d 450 (1981)
- *Kammerer v. W. Gear Corp.*, 96 Wash. 2d 416, 635 P.2d 708 (1981)
- *Amren v. City of Kalama*, 131 Wash. 2d 25, 929 P.2d 389 (1997)
- *Newman v. King County*, 133 Wash. 2d 565, 947 P.2d 712 (1997)
- *Progressive Animal Welfare Soc'y v. Univ. of Wash.*, 125 Wash. 2d 243, 884 P.2d 592 (1994)
- *In re Rosier*, 105 Wash. 2d 606, 717 P.2d 1353 (1986)
- *State v. Johnson*, 104 Wash. 2d 179, 703 P.2d 1052 (1985)
- *State v. Chester*, 133 Wash. 2d 15, 940 P.2d 1374 (1997)
- *Dep't of Ecology v. Campbell & Gwinn, L.L.C.*, 146 Wash. 2d 1, 43 P.3d 4 (2002)

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