

SUPREME COURT OF THE STATE OF WASHINGTON

Resident Action Council v. Seattle Housing Authority

Resident Action Council v. Seattle Hous. Auth., 177 Wn.2d 417, 300 P.3d 376 (2013) · No. 87656-8 · Decided May 9, 2013

SUMMARY

The Washington Supreme Court held that Seattle Housing Authority grievance hearing decisions are public records subject to the Public Records Act. Although personal information concerning welfare recipients is exempt, the records must be redacted and disclosed to the extent possible. The court also upheld orders requiring electronic production, adoption of related policies and procedures, and statutory damages, and awarded attorney fees on appeal.

CASE DETAILS

COURT	Supreme Court of the State of Washington
WRITING FOR THE COURT	Gonzalez, J.
JURISDICTION	Washington
DECIDED	May 9, 2013
DOCKET	87656-8
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from superior court orders granting relief under the Washington Public Records Act, including production of redacted grievance hearing decisions in electronic format, injunctive policies and procedures, and statutory damages.
STANDARD OF REVIEW	Agency action taken or challenged under the Public Records Act is reviewed de novo, with the agency bearing the burden to establish that a production exemption applies. A trial court's decision to grant an injunction and the terms of the injunction are reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published, en banc Washington Supreme Court opinion; precedential.
PARTIES	Seattle Housing Authority v. Resident Action Council

TOPICS

judicial review of agency action

administrative law

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PRACTICE AREAS

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public records

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QUESTIONS PRESENTED

1. Whether SHA's unredacted grievance hearing decisions were public records subject to the Public Records Act's redaction and disclosure requirements.
2. Whether the welfare-recipient personal-information exemption categorically exempted the entire grievance hearing decisions from disclosure.
3. Whether applicable federal housing regulations exempted the unredacted decisions from disclosure or preempted the Washington Public Records Act.
4. Whether the trial court abused its discretion by ordering electronic production and requiring SHA to establish public-records policies and procedures.
5. Whether statutory damages and attorney fees were authorized under the Public Records Act.

HOLDINGS

1. SHA's grievance hearing decisions were public records because they related to the provision of public housing and were retained by a local agency. They were therefore subject to the Public Records Act.
2. The welfare-recipient personal-information exemption did not categorically exempt entire grievance hearing decisions from disclosure. SHA was required to redact exempt information and disclose the remainder whenever effective redaction could render the exemptions inapplicable.
3. Applicable federal regulations neither exempted the unredacted grievance hearing decisions from disclosure nor preempted the Washington Public Records Act.
4. The trial court acted within its discretion by ordering SHA to produce properly redacted records in electronic format and to establish policies and procedures governing public-records requests, exemptions, redaction, explanations of withholding, and electronic records.
5. Because SHA violated the Public Records Act, the statutory-damages award was authorized, and RAC was entitled to attorney fees on appeal.

KEY QUOTATIONS

"Under the broad provisions of the PRA, SHA's unredacted hearing decisions must be redacted and produced." (19)

"If redaction sufficiently protects privacy and governmental interests-that is, if redaction can render all exemptions inapplicable-disclosure is required." (22)

"Applicable federal regulations neither exempt the documents from disclosure nor preempt the operation of the PRA." (25)

"We uphold the trial court's orders requiring SHA to redact and disclose the grievance hearing decisions in electronic format, directing SHA to establish necessary policies and procedures to ensure compliance with the PRA, and awarding RAC statutory damages." (29)

FACTUAL BACKGROUND

Seattle Housing Authority, a local housing authority receiving federal assistance, resolves tenant disputes through grievance hearings that generate written decisions. SHA retained unredacted decisions in individual tenant files and redacted copies in a central file. Resident Action Council requested all grievance hearing decisions from June 17, 2007, forward under Washington's Public Records Act and requested electronic production. SHA supplied redacted hard copies but did not adequately explain the redactions, correct alleged over-redaction and duplication problems, or provide the records electronically.

PROCEDURAL HISTORY

Resident Action Council requested SHA grievance hearing decisions under the Public Records Act. SHA produced redacted hard copies but did not adequately explain its redactions, provide the requested electronic format, or otherwise respond to the asserted deficiencies. The superior court ordered SHA to produce properly redacted records electronically, establish specified public-records policies and procedures, and pay statutory damages. SHA appealed, and the case was certified and transferred to the Washington Supreme Court.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The matter was remanded to the trial court for further proceedings not inconsistent with the opinion, while affirming the orders requiring redaction and electronic disclosure, policies and procedures, and statutory damages.

CASES CITED

- *Progressive Animal Welfare Soc'y v. Univ. of Wash.*, 125 Wn.2d 243, 884 P.2d 592 (1994)
- *Kucera v. Dep't of Transp.*, 140 Wn.2d 200, 995 P.2d 63 (2000)
- *Turner v. Perales*, 869 F.2d 140 (2d Cir. 1989)
- *King v. Smith*, 392 U.S. 309, 316-17, 88 S. Ct. 2128, 20 L. Ed. 2d 1118 (1968)
- *Shapiro v. Thompson*, 394 U.S. 618, 645, 89 S. Ct. 1322, 22 L. Ed. 2d 600 (1969)
- *Edelman v. Jordan*, 415 U.S. 651, 671, 94 S. Ct. 1347, 39 L. Ed. 2d 662 (1974)
- *Lankford v. Sherman*, 451 F.3d 496, 510 (8th Cir. 2006)
- *Hearst Corp. v. Hoppe*, 90 Wn.2d 123, 580 P.2d 246 (1978)
- *Hangartner v. City of Seattle*, 151 Wn.2d 439, 448, 90 P.3d 26 (2004)
- *Bellevue John Does 1-11 v. Bellevue Sch. Dist. #405*, 164 Wn.2d 199, 218-19, 189 P.3d 139 (2008)
- *Confederated Tribes of Chehalis Reservation v. Johnson*, 135 Wn.2d 734, 746-47, 958 P.2d 260 (1998)
- *Rental Hous. Ass'n v. City of Des Moines*, 165 Wn.2d 525, 537, 199 P.3d 393 (2009)
- *Limstrom v. Ladenburg*, 136 Wn.2d 595, 607, 963 P.2d 869 (1998)
- *Sanders v. State*, 169 Wn.2d 827, 854, 858, 240 P.3d 120 (2010)

- Prison Legal News, Inc. v. Dep't of Corr., 154 Wn.2d 628, 645, 115 P.3d 316 (2005)
- Ameriquet Mortgage Co. v. Wash. State Office of Att'y Gen., 170 Wn.2d 418, 439-40, 241 P.3d 1245 (2010)
- State v. Kalakosky, 121 Wn.2d 525, 546, 852 P.2d 1064 (1993)
- State of Washington v. Bowen, 815 F.2d 549, 557 (9th Cir. 1987)
- N.Y. Dep't of Soc. Servs. v. Dublino, 413 U.S. 405, 421, 93 S. Ct. 2507, 37 L. Ed. 2d 688 (1973)
- Brown v. Voss, 105 Wn.2d 366, 372, 715 P.2d 514 (1986)
- Washington Fed'n of State Employees v. State, 99 Wn.2d 878, 888, 665 P.2d 1337 (1983)
- State v. Wade, 138 Wn.2d 460, 464, 979 P.2d 850 (1999)
- In re Request of Rosier, 105 Wn.2d 606, 618, 717 P.2d 1353 (1986)
- Brouillet v. Cowles Publ'g Co., 114 Wn.2d 788, 792, 801, 791 P.2d 526 (1990)
- Dare v. Mt. Vernon Inv. Co., 121 Wash. 117, 120, 208 P. 609 (1922)