

WASHINGTON SUPREME COURT

Hangartner v. City of Seattle

151 Wn. 2d 439 (2004) · Decided May 13, 2004

SUMMARY

The Washington Supreme Court consolidated two public disclosure act cases involving requests for agency records. It held that a request for all of an agency’s documents was impermissibly overbroad, that public debate alone did not establish a controversy sufficient for the statutory controversy exemption, and that records protected by the attorney-client privilege are exempt from disclosure under the public disclosure act. The court remanded the Hangartner matter for determination of whether the withheld documents were privileged.

CASE DETAILS

COURT	Washington Supreme Court
WRITING FOR THE COURT	Alexander, C.J.; Ireland, J.; Bridge, J.; Owens, J.; Fairhurst, J.
JURISDICTION	Washington
DECIDED	May 13, 2004
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Consolidated public-disclosure-act appeals certified by the Washington Court of Appeals to the Washington Supreme Court. The trial courts ordered disclosure of requested records, and the agencies sought appellate review.
STANDARD OF REVIEW	De novo review under RCW 42.17.340(3); the Supreme Court stands in the same position as the trial court.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	City of Seattle, The Elevated Transportation Company v. Rick Hangartner, Citizens Against the Monorail

TOPICS

- administrative law
- statutory interpretation
- municipal law
- plain meaning rule
- civil procedure

PRACTICE AREAS

- public records
- administrative law
- municipal law
- statutory interpretation

QUESTIONS PRESENTED

1. Whether a Public Disclosure Act request for all books, records, and documents of an agency is impermissibly overbroad and invalid.
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 records protected by the statutory attorney-client privilege in RCW 5.60.060(2)(a) are exempt from disclosure under the Public Disclosure Act's other-statute provision.

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 documents. An agency need not comply with an overbroad request.
2. Public debate or a litigation-charged atmosphere, without a threat or reasonable anticipation of litigation concerning the project, does not constitute a controversy under RCW 42.17.310(1)(j). The light-rail documents were therefore not exempt under the controversy exemption.
3. Records protected by the statutory attorney-client privilege under RCW 5.60.060(2)(a) are exempt from disclosure under the Public Disclosure Act's other-statute provision, regardless of whether the records are relevant to a controversy under RCW 42.17.310(1)(j). The trial court erred by ordering disclosure without determining whether the withheld documents were privileged.

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." (448)

"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)." (450)

"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." (453)

FACTUAL BACKGROUND

Hangartner requested documents relating to Seattle Council Bill 113100, which concerned permits for temporary structures and uses associated with a light-rail system, and later requested records concerning Seattle's designation of an alcohol impact area. Seattle produced most records but withheld six documents under the Public Disclosure Act's controversy exemption and the statutory attorney-client privilege. Citizens Against the Monorail requested the opportunity to inspect all books, records, and documents of every kind held by the Elevated Transportation Company concerning a proposed Seattle monorail initiative; it never narrowed the request, and the company asserted that the request was overbroad.

PROCEDURAL HISTORY

In Hangartner, the King County Superior Court granted Hangartner's summary-judgment motion and ordered Seattle to disclose six withheld documents, including light-rail and alcohol-impact-area records. In *Citizens Against the Monorail*, the superior court ordered the Elevated Transportation Company to produce its public records, while separately finding some documents exempt. The Court of Appeals consolidated the matters, granted review, and certified them to the Washington Supreme Court, which accepted certification.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

In Hangartner, the trial court must determine whether the six documents withheld by Seattle are covered by the attorney-client privilege. The *Citizens* judgment was reversed because the records request was invalid; no further consideration of the agency's remaining exemption arguments was necessary.

CASES CITED

- O'Connor v. Dep't of Soc. & Health Servs., 143 Wn.2d 895, 904, 25 P.3d 426 (2001)
- Bonamy v. City of Seattle, 92 Wn. App. 403, 411-12, 960 P.2d 447 (1998)
- Wood v. Lowe, 102 Wn. App. 872, 878-79, 10 P.3d 494 (2000)
- State v. J.P., 149 Wn.2d 444, 450, 69 P.3d 318 (2003)
- Dawson v. Daly, 120 Wn.2d 782, 789-91, 845 P.2d 995 (1993)
- Confederated Tribes v. Johnson, 135 Wn.2d 734, 745-46, 958 P.2d 260 (1998)
- In re Marriage of Gimlett, 95 Wn.2d 699, 703, 629 P.2d 450 (1981)
- Kammerer v. W. Gear Corp., 96 Wn.2d 416, 421, 635 P.2d 708 (1981)
- Amren v. City of Kalama, 131 Wn.2d 25, 35, 37-38, 929 P.2d 389 (1997)
- State v. Johnson, 104 Wn.2d 179, 181, 703 P.2d 1052 (1985)
- State v. Chester, 133 Wn.2d 15, 21, 940 P.2d 1374 (1997)