

A businessman in town who sells invisible “dog” fences has requested a list of all dog licenses issued. Is this public information that must be provided?

Yes, we think it is. Vermont law specifies 28 types of records that are exempt from public disclosure, one of which is “*lists of names compiled or obtained by a public agency when disclosure would violate a person’s right to privacy or produce public or private gain...*” 1 V.S.A. § 317(c)(10). An example of one such list is the annual dog census prepared at the direction of the legislative body and filed with the municipal clerk. That list includes unlicensed and inoculated and licensed dogs and wolf-hybrids. 20 V.S.A. § 3590(a). At first glance, if one assumes that the purpose of the request is to drum up some new fencing business, under this exemption, the clerk might conclude that given the requesting party’s motive, the list is exempt and need not be turned over. However, the fact is that the Vermont Supreme Court has ruled that *motive is irrelevant to the [plaintiff’s] access right to information. Finberg v. Murnane* 159 Vt. 431 (1992). Although the Court did not address exemption § 317 (c)(10) specifically in reaching this finding, its ruling does throw into question the meaning and application of “*public or private gain*” as used in the statute. Additionally, if a person were to ask the clerk for a copy of one or more individual dog licenses, because a dog license is a public document (1 V.S.A. § 317(b)), a copy would have to be provided. Therefore, it follows that absent another compelling reason to withhold the dog census list in its entirety, that, too, is public and should be provided if requested.

VLCT News, May 2000