

***A company named Que-VT is requesting a copy of our computerized appraisal information. We feel that this is sensitive information and we are concerned about disclosing it. Do we have to divulge this information?***

Public records requests are routine in any municipal office. This request is different, however, because many towns maintain highly detailed appraisal information that contains information such as the exact footprint of a home, locations of bedrooms, electrical lines, gas lines, phone lines, social security numbers, and other potentially sensitive information.

Appraisal information, such as the listers' cards, or computerized appraisal data, is governed by Vermont's Access to Public Records Law. *See* 1 V.S.A. § 315 et seq. This law grants the public a strong right to look into the affairs of local governments, making virtually every "document" in your office public, with a few specific exceptions. Therefore, it is important to operate on the assumption that virtually every piece of paper, every computer disk, and every other piece of information must be made public if someone requests it. That said, there may be a specific exemption in the law that makes a document exempt from disclosure.

The question most towns are asking is, "do we really have to give Que-VT this information?" Under the current state of the law, the VLCT Municipal Assistance Center believes that this information is a public record, and must be released to those requesting it. On the other hand, some towns believe this information is too susceptible to misuse and have decided not to release it. However, the pitfalls of not releasing this information are many. Let's analyze some of the options towns have and the potential ramifications of taking action:

1. Give Que-VT a CD containing all town appraisal information. Possible outcome: A potential backlash from town property owners. Towns may also want to consider the security issues related to disclosure of this information. This option would most likely prevent a lawsuit from Que-VT.
2. Give Que-VT a data-only format of your town's appraisal information. Possible outcome: Protection of your town's software copyright; though there is still the possibility of a lawsuit from Que-VT, claiming the information is public and not exempted from disclosure. A potential backlash from property owners, citing security concerns.
3. Give Que-VT a paper copy of your town's appraisal information, with sensitive data blacked-out. Possible outcome: Preventing disclosure of sensitive information, though there still exists the possibility of a lawsuit from Que-VT, claiming the information is public. It is important to remember that if someone requests data in a certain format (i.e., electronic), and the town maintains the data in that format, it must be released in the format designated by the requesting party. *See* 1 V.S.A. § 316 (h).
4. Refuse to give Que-VT any appraisal data. Possible outcome: While this would prevent disclosure of sensitive information, a town could probably expect a lawsuit from Que-VT, claiming the information is public.

These are difficult policy choices that towns should make only after carefully weighing the benefits of releasing this information against the potential ramifications of not releasing it. One of the pitfalls for municipalities is that the Access to Public Records Law provides severe penalties for towns which refuse to disclose this information but lose in court: “The court may assess against the public agency reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed.” 1 V.S.A. § 319 (d). It is important to understand that these costs could be quite substantial; this is but one of the factors to weigh in considering the release of sensitive information.

Some towns have said that Que-VT technicians have arrived at their municipal offices with computer hardware, demanding to hook their computers up to the town’s computers. No law gives anyone a right to simply connect his or her computer to a town computer like this, and towns are well within their rights to refuse such unfettered access.

Keep an eye on the *VLCT News*, as VLCT will continue to monitor this issue in the courts as well as in the policy arena, and will keep members updated on the latest developments.

Additionally, please call the VLCT Municipal Assistance Center if you would like to discuss this issue.

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