

## **OPEN MEETING AND PUBLIC RECORDS LAWS NARROWLY CONSTRUED**

The open meeting law and the public records law were the subjects of *Blum v. Friedman...*, *Town of Winhall Selectboard*, Vt. Entry Order No. 2000-341 (Sept. 12, 2001).

Blum lives in a section of Winhall where certain municipal services are provided by the Stratton Corporation, under a contract with the town. The town and Stratton negotiate a contract and then Stratton bills the homeowners directly for the services provided. Blum wanted to be present at a negotiation meeting between the town and the corporation but was told that he could not because the meeting would be held in executive session, which is an exemption from the open meeting law under 1 V.S.A. § 313. The pertinent section, 313 (a)(1), applies to contract negotiations “where premature public knowledge would clearly place the ... municipality...at a substantial disadvantage.”

The Court agreed that contract negotiations **may** be a legitimate exception to the open meeting law. However, there must be a case-by-case analysis to determine if public attendance will create a substantial disadvantage in a particular situation. In this case, the Court said “it is unclear how [public] access to the negotiation would place the town at a substantial disadvantage since the adversary in the negotiation is already present.” The Town further argued that Blum did not have standing to bring this case and the lower court had agreed. The Supreme Court said in order to show standing here “that the plaintiff [must] show threat of injury to a protected interest.” Since the subject of the negotiation was the amount of fees and charges which Blum would have to pay to Stratton, his financial interests were at stake and he qualified as a “person aggrieved by a violation of” the open meeting law. He was essentially denied the right to hear what position his elected officials would take regarding the fees and charges that he would have to pay.

The second issue which Blum raised was that he had requested property tax documents in electronic format, under the public documents law, 1 V.S.A. § 316. He was told there was a fee for such documents. He paid the fee but never received the documents.

The lower court had found that the Town did provide some records, but Blum said they were unusable and incomplete. The Supreme Court agreed that the statute does not specifically say that copies of records be “usable,” but they must be “in standard format.” In addition, the records provided must be complete. The lower court was too hasty in dismissing this claim by Blum.

Finally, the Court pointed out that the Town had made a verbal contract with Blum to supply the records as requested for a certain fee. Therefore, even if it was not obligated by statute to provide the records in electronic format, it had voluntarily contracted to do so and it had broken its contract.

This is a clear statement from the Supreme Court that the open meeting and public records laws continue to be interpreted liberally, with the public’s rights in mind.

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