

Commonwealth Court Holds That Addresses Contained In Property Tax Assessment Records Are Public Records

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Butler Area School District v. Pennsylvanians for Union Reform, 1460 C.D. 2014, 2017 WL 4974552, at *1 (Pa. Cmmw. Nov. 2, 2017). The Commonwealth Court of Pennsylvania holds that addresses contained in property tax assessment rolls are public records and are not protected by the right to privacy set forth in Article I, Section 1 of the Pennsylvania Constitution, as construed by the Supreme Court of Pennsylvania in *Pennsylvania State Education Association v. Department of Community & Economic Development*, 148 A.3d 142 (Pa. 2016) (“PSEA”).

Summary and Factual Background

In *Butler Area School District v. Pennsylvanians for Union Reform*, (“Butler”), the Requester submitted a request for records pursuant to the Right-to-Know Law (“RTKL”) to the school district (“District”) for the property tax assessment rolls prepared by Butler County (“Property List”). The Property List sets forth each property owner’s name and address for properties within the geographic confines of the District and is the type of document used to prepare tax duplicates.

The Office of Open Records (“OOR”) directed the District to redact the home addresses of District employees and provide the redacted Property List. On appeal, the trial court permitted the District to withhold the entire Property List. The Commonwealth Court reversed the trial court and ordered the District to provide the complete Property List, without redaction.

Discussion

In October 2016, the Pennsylvania Supreme Court, in *PSEA*, held that Pennsylvanians enjoy a constitutionally-protected right to privacy in their home addresses. The Supreme Court stated that the RTKL was not intended to be used to procure personal information about private citizens or to be a generator of mailing lists. Specifically, the Supreme Court stated: “Public agencies are not clearinghouses of ‘bulk’ personal information otherwise protected by constitutional privacy rights.” *PSEA*, 148 A.3d at 158. Therefore, before releasing a home address in response to a RTKL request, a school district must balance the individual’s right to privacy in his or home address against the public benefit in the dissemination of that information. *ID.*, at 156-158.

In *Butler*, the Commonwealth Court held that documents like the Property List, which contain the names and home addresses of individuals and other entities, are public records in their entirety.

Initially, the Commonwealth Court held that the Property List is the type of record that has always been deemed a public record. Citing earlier cases, the Court noted that Pennsylvania has a longstanding practice of mandating access to property assessment records. Moreover, the Court noted that property assessment records are also public by statute, including the Consolidated County Assessment Law, 53 Pa.C.S. 8841(d), and the Second Class County Assessment Law, 72 P.S. 5452.18. Based on these statutes, the Court stated that the General Assembly had already determined that the necessity for making these records public outweighed any privacy interest.

Next, the Court distinguished *PSEA* by noting that the property addresses contained in the Property List correlate to taxable property. Because property addresses are an integral part of tax assessment records and impact the public fisc, they are public in nature. In addition, the properties on the Property List are not necessarily owned by individuals – some

are owned by corporations and partnerships. Only individuals, as opposed to persons (including corporations), can assert privacy rights under Article I, Section 1 of the Pennsylvania Constitution.

Finally, the Court held that prior judicial decisions do not support a privacy interest in property addresses, as opposed to home addresses. Privacy applies to personal identifiers, such as personal phone numbers and Social Security numbers, not longstanding public records like the Property List.

Therefore, based on prior case law and current statutes, the Court concluded that there was no individual privacy interest in the Property List. Therefore, the PSEA balancing test is inapplicable and the Property List and similar records are public records under the RTKL.

Practical Advice

Butler Area School District v. Pennsylvanians for Union Reform, 1460 C.D. 2014, 2017 WL 4974552, at *1 (Pa. Cmmw. Nov. 2, 2017), is the first limitation on the potentially broad application of the Supreme Court's decision in *PSEA*. Corporate requesters frequently submit RTKL requests for documents like the Property List at issue in *Butler*. Prior to *Butler*, many school districts concluded that, at significant time and effort, they had to redact addresses pursuant to *PSEA*. *Butler* confirms that these lists are now public records in their entirety. Therefore, school districts may grant such requests without concerns about violating the privacy rights of individuals.

The *Butler* court acknowledged that a request for a home address of a specified individual or group of individuals implicates privacy rights protected by *PSEA*. Therefore, if a RTKL requests seeks anything other than tax assessment rolls, school districts should consult with their solicitor before granting the request.

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