

Public Law Group

Legal Update

OPEN PUBLIC MEETINGS ACT UPDATE: Names and Addresses subject to OPRA

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Recently questions have risen as to whether lists of names and addresses maintained by a public entity are subject to the Open Public Record Act ("OPRA"). Based on the statutory language and recent court decisions these lists appear to be subject to the Act.

In Plumsted Township, an individual requested the list of resident e-mail addresses for people who signed up to receive the Municipal electronic newsletter. The Plumsted Township Record Custodian denied the request concerns for the privacy interest of the Township's residents. The Court ultimately held that the list of e-mail addresses maintained by the Township of Plumsted were subject to OPRA and had to be disclosed.

More recently, the New Jersey Appellate Division ordered that a mailing list of senior citizens compiled by Union County were subject to OPRA. The mailing list included the names and addresses of "senior citizens" who had signed up for copies of a senior newsletter from the County of Union.

These decisions emanating out of Ocean and Union County Superior Courts clearly evidence that public policy of New Jersey favors disclosure of mailing lists whether physical or electronic. In reaching these decisions the public's interest in the mailing lists was balanced against the citizen's interest in maintaining confidentiality. This analysis is flexible, fact sensitive and resolved on a case by case basis. Record Custodians throughout the State are regularly challenged with these difficult decisions. Helpful in making these daily

decisions is that the Courts universally agree that a Records Custodian may redact information which discloses the social security number, credit card number, unlisted telephone number, or driver license number from a record prior to dissemination. The Court did confirm that "involuntary lists" (such as one created by dog licensees) are not subject to release under OPRA.

However, in the Plumsted Township and Union County cases the Courts ultimately opined that physical or electronic mailing lists shall be freely accessible to the public. In light of these decisions Governmental entities will need to consider alerting residents that their addresses may be subject to dissemination if they sign up for electronic or paper newsletters. These warnings will help residents make informed decisions on whether they want to sign up to be on public entity mailing lists. Please contact our office for help drafting these warnings.

Questions can also be directed to the author of this Legal Update:

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