

A REVIEW OF, SIERRA CLUB V. THE SUPERIOR COURT OF ORANGE COUNTY (the California Supreme Court) - Distinction Between GIS Data and Software Under the Public Record Act

Adamu Muhammad Bello

National Space Research and Development Agency, Abuja, Nigeria

INTRODUCTION

GIS databases hold all kinds of information relevant to specific individuals and privacy concerns continue to be a major challenge. One of the most important questions concerns whether or not those data can be protected by intellectual property rights.

Public agencies use of the technology has also brought new problems because it creates an unprecedented demand for information from public agencies.

Also, GIS professionals have become aware that they may be held legally accountable for the accuracy and reliability of the information stored in their databases, sold, or issued to the public.

BACKGROUND OF THE CASE

Is data in a Geographic Information System (GIS) file format a public record subject to disclosure?

GEOSPATIAL ASPECTS OF THE ISSUE

GIS is a software that transforms geographic data and statistics into maps that reveals relationships, patterns, and other information in a visual-spatial format.

In this case, the Sierra Club sought Orange county's parcel data in a GIS file format in order to convey to the public the status of whether large areas of open space in the county were protected from or threatened by development.

Orange Country argued that such data was exempt from the PRA (Paperwork Reduction Act) under the statutory of "computer software".

DECISION OF THE COURT

Government Code section 6254.9(b) defines "computer software" to include "computer mapping systems, computer programs, and computer graphics systems."

Both the Superior Court and the Court of Appeal ruled in favor of Orange County, finding that the evidence at trial and the legislative history of "computer mapping systems" supported Orange County's position that GIS-formatted files were too closely integrated with GIS software, and that such data was exempt from disclosure as part of a complex, unified computer mapping system.

The California Supreme Court ruled that data in a Geographic Information System (GIS) file format is a public record subject to disclosure under the California Public Record Act (“CPRA”, Government Code section 6250 *et seq.*).

The supreme court explained that, although GIS mapping software falls within the CPRA statutory exclusion of “computer software” generally, the ordinary meaning of “computer software” does not include data that is stored in computers and formatted in such a way to be used with particular software. If data in a GIS file format is statutorily exempt from CPRA disclosure, then any information stored on a computer in a specific format to be manipulated by software would arguably be exempt as well, and that is not what the legislature intended.

SUMMARY

The California Supreme Court reversed the ruling of both the Court of Appeal and the Superior Court.

It found the legislative history inconclusive and erring on the side of disclosing public records, the court held that, although the GIS software itself is exempt from the CPRA as “computer software,” data in a GIS file format is not.

The Court explained, “*The format of information is not generally deterministic of the public record status of government of government information.*” Because “*almost all data stored in computers are formatted in some manner to be used with application software,*”.

Exempting the GIS data itself would have the effect of excluding any computer mapping databases simply because they are files manipulated by mapping software. The Court found this result would contravene the CPRA, which expressly states that “information stored in a computer” is a type of public record subject to disclosure. (Government Code section 6254.9(d)).

CONCLUSION

The Court noted that GIS-formatted mapping data provides important information to the public because “it is critical to monitor and respond to government actions involving real property”.

Consequently, GIS databases are public records and must be produced upon request at the actual cost of duplication, unless otherwise exempt.

REFERENCE

Extracted from ***Meyers Nave Corporation*** – California firm (2013). 555 12th Street Suite 1500 Oakland, CA 94607 United States; www.meyersnave.com