

Eric David Discusses Freedom of Information Act Requests with StateScoop.com

09.23.2016

Eric David, a partner in the Raleigh office of Brooks Pierce, was recently quoted in an article focused on if governments could cite vendor trade secrets as a legitimate reason not to release documents under a Freedom of Information Act (FOIA) request.

The article on website StateScoop.com explores a recent lawsuit filed against Chicago's Office of Emergency Management and Communications for improperly denying a FOIA request.

According to the article, the nonprofit Chicago Justice Project requested records from the Chicago Office of Emergency Management and Communications related to police calls for the past four years. The city provided the database, which included entries containing some sort of code, which the Chicago Justice Project could not interpret. The nonprofit then requested a key to read the codes.

The city has so far denied that request, saying that Northrop Grumman, the company that created the database system, hoped to protect the code and its key as trade secrets. The company is worried that releasing the information would damage its ability to compete for similar projects in the future and provide sensitive business information to its competitors.

David said that government contractors have often been able to protect their trade secrets despite such requests, so long as the information truly is a trade secret, as defined in the statute. He suggested if this really is a trade secret issue, Northrop Grumman may want to intervene in the FOIA lawsuit and ask that these records remain private.

"The tell will be, will Northrop Grumman come in and litigate the case?" David told StateScoop. "[L]et's assume there's not some ulterior motive not to disclose the information, then the city doesn't really care about the trade secrets, it's just that Northrop Grumman does. If it really is their position, then they'll intervene in the case and help the city with the defense."

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