

No Good Deed Goes Undisclosed: Appellate Court Requires Disclosure of Donors' Names Under Freedom of Information Act

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A recent ruling by the Michigan Court of Appeals has reaffirmed the court's tendency to favor public disclosure of information under the Freedom of Information Act (FOIA), even when privacy concerns are at play.

The sought-after information in *Bitterman v Village of Oakley* included the names of donors to the village's police fund. The village argued that the identity of the donors was except from disclosure under FOIA's privacy exemption, which exempts information "of a personal nature" from disclosure – if divulging the information "would constitute a clearly unwarranted invasion of an individual's privacy."

The appellate court refused to apply the privacy exemption, even though the donors used private assets to contribute to the police fund. In its view, the only potential harm to the donors was increased vulnerability to unwanted solicitors, which did not outweigh the public's interest "in knowing the sources of non-tax funds that support Village operations." The court, therefore, ordered disclosure of the donors' names.

With FOIA requests on the rise, the appellate courts will likely have further opportunity to weigh in on the scope of the act and when its various exemptions should be applied to prohibit disclosure. Until then, municipalities should be mindful of the court's current policy favoring disclosure and give careful consideration to FOIA requests in light of privacy and other related concerns.

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