



Privacy Concerns and the Land Information Office Website

Introduction

The Ozaukee County Land Information Office (LIO) serves as the coordinating body for land information and land records in Ozaukee County. Part of this coordinating function is accomplished by sharing and distributing land information to internal customers such as County departments and to external customers such as municipalities and the general public to improve decision making and inform citizens. An increasingly popular and efficient way to distribute land information to customers is to publish it on the County's Internet web site.

The LIO hosts a site attached to the County's web page that allows unrestricted access to property and valuation information. This site has become one of the County's most popular as it is used by real estate and finance professionals to perform their regular business functions. As use and awareness of this site has increased, individuals have contacted County officials requesting that their names be blocked based on privacy concerns. These requests have raised a number of issues for the Land Information Office and for the County's Division of Information Management about the type of information that should be distributed on the Internet. Four primary issues have surfaced during recent discussions:

Legal/Open Records Status of Internet Information

The first issue is a legal one based on the status of Internet information as an open record. All of the information available on the web site is also available in unrestricted, open records stored in County offices in both electronic and paper format. The electronic records can be accessed in house by the public on computers and programs designed for public use. For convenience, County staff also provide access to open records information over the phone. If the information available on the web site is viewed as a "pure" open record, then access to it may not be restricted in any way without facing the possibility of a legal challenge. Alternatively, if the record is viewed as something less than a "pure" open record, then the County may have some choice about the information it makes available on the web page. In other words, some information may be restricted or information on particular individuals may be restricted while other information is not.

The open records status of information published on the Internet partially depends on how the Internet is viewed. If the Internet is viewed as an extension of County government, then anything electronically available within the walls of the courthouse should also be available over the Internet. On the other hand, if the Internet is viewed primarily as a communication tool, then the information contained on it may not have the presumption of access associated with open records.

Customer Service Implications of Restricting Access

Assuming that Internet information is not a pure public record and that access to information could be restricted, this restriction raises the issue of customer service. Real estate professionals rely on this web site to retrieve information that they otherwise would have to obtain by physically traveling to the City County Building or by calling a County office. Restricting access to information would decrease the utility of the site to business partners and would place a burden on business partners who over the last two years have come to rely on this service.

Staff Workload Implications of Restricting Access

Again, assuming that access to personal information could be restricted, this restriction would cause real estate professionals and other users to increase their contact with County staff. The Real Property Lister, for example, estimates that their office would receive an additional 100 calls each week if access to the Internet were eliminated.

Access to the property information on the Internet has provided an efficiency gain that would not be possible with any other technology. This access has allowed County staff to take on additional responsibilities without a corresponding increase in staff resources. However, if access were restricted, real estate professionals would have to rely on County staff to provide the information they are seeking.

Privacy of Individuals

The final issue is personal privacy and the responsibility of government to protect and respect the privacy of individuals. The unrestricted dissemination of personal information may lead to cynicism and contempt for government as citizens lose control over their private information. Citizens both voluntarily and involuntarily provide personally identifiable information to government, but in either case, have little control over how that information is subsequently distributed or made available for public inspection. The issue becomes particularly poignant when personal safety could be jeopardized because information is open to anyone regardless of intent. While unrestricted access to land information has resulted in

quantifiable efficiency gains, the loss of personal privacy represents a non-quantifiable cost. Given this tradeoff, the question becomes, how should the County balance its mandate to provide open access and the positive efficiency gains associated with widely distributing this information with the desire of constituents to protect their personal privacy safety.

This paper is the first step in answering this question. It will provide background information on the characteristics of the web site, discuss policy implications, offer technical options for blocking selected information, and discuss the consequences of blocking this information. The paper is clearly not a legal opinion, but it is intended to provide information to inform legal advisors and policy makers about the nature of the web site and the policy concerns it has generated. Since a legal opinion has not been rendered on the open records status of Internet information, the paper assumes that options to restrict some access may be available.

Description and Use of the Web Site

In 1997, the Land Information Office developed a web site easily accessed from the Ozaukee County web site that allows users access to selected real estate information. The site allows searches by name, address or parcel number, and it returns the same information along with ownership, legal description, and valuation information. This means that any user can connect the name of an individual owner to a parcel, the assessed value of that parcel, and the parcel's street address. Individuals requesting that their names be blocked are primarily concerned that their name is attached to an address, allowing any user at any time to determine the location of their home.

The web site is one of the County's most used. It has had a total of over 47,000 hits since April 1998 with an average of 124 hits per day since January 1999. The primary users of the Internet system come from commercial domains. According to LIO committee members, these users are primarily real estate and finance professionals who use property information contained on the page to conduct routine business. Title companies, law firms, assessors, town clerks, and mortgage financing companies all use the web site to prepare documents or satisfy requests for information. A complete list of users of real property information, as compiled by the Wisconsin Real Property Listers Association, is found in *Attachment A*. Although many of the primary users do not require name searches, the ability to search by name increases the utility of the page to these customers. These customers particularly rely on the parcel identification number, legal description, and valuation information. At the same time, internal County staff use the system to retrieve information because of its efficient and useful functionality. They rely on all of the search parameters, although they would have ready access to other forms of information.

Summary of Open Records Provisions

The data available on the web page is drawn from the property description database maintained by Property Listing in the Planning and Development department. As a public record, Wisconsin's open records law governs the information contained in the database. According to a report compiled by Wisconsin's Legislative Council, the Wisconsin Open Records law is based on a strong presumption in favor of public access to state and local government records. This presumption applies whether or not the information in the record contains personally identifiable information, where personally identifiable information is defined by statute to mean information that can be associated with a particular individual through one or more identifiers or other information circumstances. [s. 16.62 (5), Stats.] Open records requests may be made orally, but they must be in writing before action to enforce the request may be commenced.

The Open Records law also indicates that the presumption of complete public access is an essential function of representative government and that denial of public access is generally contrary to the public interests and may be denied only in exceptional cases. [s. 19.31, Stats.] Exceptions to access can include exceptions specifically set forth in open records law, exceptions based on open meetings law, or common law exceptions. The Wisconsin Supreme Court has not listed the common law exceptions, so the records custodian leaves these matters to a case by case determination. This case by case determination is decided using the balancing test where the records custodian decides whether permitting access and inspection of records would result in harm to the public interest that outweighs the benefit to the public interest of allowing open inspection.

In the case of computer records, the law states that computer programs are not subject to open records. However, the material used as input for a computer program or the material produced as a product of the program is subject to the general right of examination and copying unless another exemption to the Open Records law is applicable. In all cases, however, there is a strong presumption in favor of allowing public access to public records.

Requests to Restrict Access

The LIO received only 2 requests to restrict Internet access to records prior to 1999. More recently, however, LIO committee members, staff, and the Corporation Counsel have received a total of 27 requests to restrict access to information. The Register of Deeds has received one or two requests each month for the past six months. The County Treasurer has received approximately six requests. LIO staff have received 8 requests. The Real Property Listers in Planning and Development have received 5 requests in 1999, and Corporation Counsel has received approximately two requests to restrict access. The recent establishment of a similar web site on the City of Madison's Internet site may have triggered the increase in requests. The Madison site has received a considerable amount

of press, and according to the City Assessor's Office, each media report is followed by calls from the public to restrict access.

The requests received by County officials to restrict access have come from a variety of individuals. The majority of these requests have come from law enforcement officials, stalking victims, or victims of abuse. However, requests have also been received from citizens who simply wish to protect their personal privacy.

Ozaukee County's Current Policy

Prior to the establishment of the web site, the LIO discussed open records and liability issues with Corporation Counsel. The LIO's current policy is based on the presumed access to the information contained in the open records law, regardless of the means of access. Shortly after the site was established, a citizen asked that his/her records be restricted from access. The LIO discussed this concern with Corporation Counsel and, as a result, added a Public Information and Privacy Statement to the web page. The public information and privacy message states,

This web site is administered by Ozaukee County, Wisconsin. Ozaukee County is subject to a variety of state statutes.

In advance of our decision to place the data on this site on the World Wide Web, our legal advisors researched the statutes on the subject of privacy and public records. Section 895.50(2)(c). Wisconsin Statutes, provides in part that "it is not an invasion of privacy to communicate any information available to the public as a matter of public record." All of the information available on this web site is a matter of public record. The data available on this web page is also available by visiting the public access areas in various County offices or via open records requests.

To find out more about Wisconsin's public access statutes, contact your Wisconsin state senator or representative by calling 1-800-362-9472.

For individuals who insist on restricting access to their property records, County staff currently inform them of a legal remedy: individuals may create a blind trust which would be listed as the owner of the property. In addition, the trustee could request that the trustee not be listed in the record. Although this is a request that can be accommodated at Ozaukee County, it is not statewide practice. In response to recent requests to restrict access, County officials have also stated that the LIO is currently seeking a legal opinion and will not restrict access to information until that opinion is rendered.

Policies of Other Agencies

Other agencies were interviewed regarding their standing policies on the distribution of personal information over the Internet. Members of the LIO committee and LIO staff solicited input from professional associations, including the Wisconsin Register of Deeds Association, Wisconsin County Treasurers Association, the Government Information Processing Association of Wisconsin (GIPAW), and the Wisconsin County Land Information Officers. Only two Counties in Wisconsin have a comparable web site, and only three other Counties have had requests to restrict access to personal information distributed in other media. The Cities of Madison and Milwaukee also have similar web sites and were interviewed.

The City of Madison also restricts access to names on the Internet site upon request, but the City does not block names in other forms of data distribution. In order to have a name blocked, a person must submit a written request; the City honors all requests. When a name is restricted from display, the field for owner name displays this message: *Owner's name is available at the Assessor's Office*. As of November 5, the City had removed approximately 225 names. Business partners such as title companies have not complained about the name restrictions because the vast majority (99 percent) of information is complete.

The City of Milwaukee's Internet site does not allow a search of property information by owner name, but it does display name information as a result of the search. This approach is intended to balance the needs of business users of the site with citizen concerns for privacy and protection from harmful intent. City staff internally access this information using an application that does allow a name search. The City has not received requests to block access to this information.

Barron County sought an Attorney General's opinion about whether providing information on the Internet would release them from responding to open records requests in County offices. This opinion is included as *Attachment B*. The Attorney General did not discourage placing information on the Internet but stated that information available on the Internet could not replace the access available in County offices, including the expected provision of some level of personal assistance. At the same time, the Attorney General did not explicitly comment on the open records status of Internet information.

Land information officials in Kenosha County have received requests to restrict access to personal information on their Internet postings. Kenosha County currently removes all names upon request unless that information is related to tax billing. Tax billing information is not restricted because state statutes require that the assessment roll reflect the owners of records as they are recorded in the Register of Deeds Office.

Outagamie County has received one request from a law enforcement official to restrict access to his/her name on a data distribution list provided to private vendors. Outagamie County typically does not honor these requests but did so because this case was a special directive.

Washington County has had 9 requests to restrict access to personal land and ownership information published in newspapers (6 in 1998 and 3 in 1999). Washington County officials did not comply with these requests.

Wood County has received one request to restrict access from a citizen who was bothered by marketers who purchased county information on septic systems. Wood County did not honor the request and does not have a defined policy. All requests are handled on case by case basis.

In summary, most local governments do not currently have land information available on the Internet. At the same time, many of those interviewed intend to develop an Internet service similar to Ozaukee County's, and expect they will receive requests when they do provide Internet access to this information. Most agencies also indicated that they would like additional education and legislative guidance on this topic. Developing a consistent policy is also important as agencies share information across jurisdictions. Blocking names on the City of Madison's page, for example, does not ultimately protect privacy if those names and addresses are available on the County's web site, which is currently the case.

Two other County departments are discussing similar privacy issues. The Clerk of Courts is a member of the Wisconsin Circuit Court Access oversight committee. This committee oversees the WCCA program which offers Internet access to all unrestricted case information. Privacy concerns have been raised because the site provides address information, date of birth, and drivers license numbers all on the same web site. The oversight committee had its first meeting in September of 1999 and has not taken action to restrict access.

The County Clerk is responsible for maintaining voter registration records. Typically these lists contains a voter's name and address. Beginning next year, campaign finance reports, including polling list information will be electronically filed. The County Clerk would like to publish these reports on the Internet, but would also like to establish a process for receiving requests to block voter names from Internet display. This would reflect activity at a statewide level, where a bill is currently before the legislature (passed Assembly unanimously) allowing victims of abuse to have their names removed from polling lists based on a conviction or charge currently under investigation.

The Governor's Office and the State Senate have also convened committees to discuss privacy concerns. These groups have not yet reached any conclusions since they have just

recently begun meeting. These committees, as well as legislation regarding privacy, should be closely monitored as they may provide legislative guidance.

Future Information to be placed on the Internet

Other land information may be offered on the Internet in the future. The Land Conservation department, for example, would like to publish farm preservation plans and conservation planning data, and Planning and Development would also like to publish zoning information. The Register of Deeds would also like to extend Internet access to real estate records, but access to these records would be confined to subscribers who pay for access.

In terms of privacy, caution should be exerted when information is compiled or merged from different sources. Compiled information enhances the ability to develop a personal profile of an individual and is considered far more invasive than accessing any one source of information. Personal profiles, or the agglomeration of personal information from a variety of sources, are a critical concern of privacy rights advocates and greatly contributes to the chances of identity theft.

Policy Options

1. No restrictions on access to records (status quo)

This alternative assumes that Internet information is viewed as a "pure" open record and that access to it cannot or should not be denied. The web site would be maintained in its current form, including the statement on public records and privacy.

Policy

Any requests to restrict access would be denied and reference would be made to the *Public Records and Privacy* statement on the web site. Requestors would be referred to legal or legislative authorities if they have further concerns or questions.

Technical Impact

Since this alternative maintains the status quo, there would be no additional technical impact.

Fiscal Impact

Since this alternative maintains the status quo, there would be no additional fiscal impact.

Service Impact

This option provides great convenience for citizens and business customers who use this data. They would maintain the ability to access these records from their home or place of business, and it would maintain the staff efficiencies gained by reducing the amount of time answering questions on the phone or in person.

2. No restrictions on access to records – Provide education on legal remedy

This alternative would not affect database access or web site functionality. However, a link would be added that discusses a legal remedy for those concerned about privacy and access to public records. The page would discuss the option of establishing a trust to be listed as an owner to protect the identity of an individual, and it would note that upon the trustee's name can be withheld from the record upon request to the Real Property Lister.

Policy

Any requests to restrict access would be denied. Reference would be made to the *Public Records and Privacy* and *Legal Remedy* (land trust) statements on the web site. Requestors would be referred to legal or legislative authorities if they have further concerns or questions.

Technical Impact

Since this alternative is very close to the status quo, the technical impact would be minimal. Implementing this alternative would require LIO staff to work with Corporation Counsel on appropriate wording and on developing the page and link.

Fiscal Impact

This alternative would have a minimal fiscal impact. Approximately 2 hours of staff time would be required to develop the language, web page and linkages.

Service Impact

The service impact for this option is the same as the impact of the status quo. This option may only aid citizens who have the financial means to obtain the legal services necessary to create a trust.

Restrict the Internet Search but Provide Full Access via Display Results

Similar to the City of Milwaukee Internet site, full access to property records could be provided, however the search would be performed by address and parcel number only, not owner name. This alternative removes the most sensitive privacy concern – the ability of global users to locate a person's address with only name information – but still provides access to the public record. The vast majority of Internet searches will still be able to be performed. In those cases where only the owner's name is known, the inquiry will need to be done via telephone, walk-in, or public terminal services.

Policy

The policy for this option would be the same as the policy for option #1.

Technical Impact

The current Internet application would need to be modified to remove the search by owner name. For County staff, an Intranet browser or other application would still allow the name search.

Fiscal Impact

Modifying the current Internet application by removing links would take approximately 1 hour. Since the application is currently being re-written, not writing program code for these queries would save approximately 16 hours of development time.

Service Impact

Some additional County staff time would be required to assist those who only have an owner's name available for inquiries.

Restrict Access to Selected Information

If the County can legally restrict access to information on the web page, a third option is available. The LIO may choose to develop a policy in which access to certain information or access to the information of certain individuals is blocked from Internet access. With any of the restrict options, the LIO would also need to develop a policy for other types of data distribution or apply the Internet policy consistently across distribution types. Some of the most obvious information restriction options are discussed below.

Block Names of "Protected" Individuals Based on Case Law

This alternative recognizes recent case law which affords protection to certain classes of people or people under certain circumstances. To develop criteria or classes of individuals that may be protected from name disclosure, assistance would be required from Corporation Counsel. However, protected individuals would probably include persons who are concerned with security for their personal safety or professional reputation. Examples include law enforcement personnel, officers of the court, social workers, therapists, and abuse or stalking victims.

If names are blocked for this reason, some type of request form or procedure would need to be developed to identify and validate the reason for the request, and blocking the name from Internet access would require an additional field in the database which could be used as a flag to denote restricted access. When requests to block access are approved, the Internet site would not display the owner's name but would carry a note stating that this information is available at the City-County Building.

Honor all requests to restrict names

This policy is similar to the current City of Madison procedure. Names would be blocked upon request without indicated membership in a protected class of individuals. Although this policy may result in more names being blocked, the experience of the City of Madison indicates that the impact on customer service and staff resources would not be significant. However, as more access is restricted, the probability of facing a legal challenge based on open records law increases. Again, the Internet site would not display the owner's name but would carry a note stating that this information is available at the City-County Building.

Restrict display of all names

This policy would allow users to search and retrieve data based on address, PIN, and other search parameters, but it would not search or display the owner's name. This option is the most threatening to open records law because it limits access the most, and it would have the greatest negative impact on customer service and staff workload. However, the measurable impact is not known. Assuming that the average number of daily hits (124) is an indication of the potential increased workload, staff workload would increase dramatically. Under this policy, the Internet site would not display any names but would carry a note stating that this information is available at the City-County Building.

D. Develop an Extranet for secured access to business partners

Another option to restrict access would be to provide full access to business partners but restricted access to the general public. Differentiating between types of users does not reduce the probability of legal action because it carries the same open records risks. In

addition, funding would be required to establish a secured access extranet. Staff would also be required to maintain and administer the secure accounts.

Technical Impact

The technical impact of this option varies depending on the particular alternative selected. For Alternate A or B: A flag field has already been added to the real property database by the vendor at the request of the LIO Committee which provides flexibility in addressing this issue. Staff would need to update the database if a restriction were approved. This action would require just one additional data entry step, but the application that extracts data from the database to the Internet would have to be re-written to identify flag fields and replace owner name with a message that information is available in the City County Building. For Alternate C: Modify the Internet program to not allow a search or display of the owner name field of the database. For Alternate D: Establish an extranet or secured access mechanism that would provide name search and display functionality for business users, but not for general public internet access. This would also require the establishment and management of secured accounts.

Fiscal Impact

The fiscal impact of this option varies depending on the particular alternative selected. The database vendor did not charge the County to add the additional database field since the system was already undergoing conversion, but 1 to 160 hours would be needed to develop revised data extract and posting process based on the Alternatives described. Again, depending on the alternative chosen, not writing programming code for queries could result in time savings.

Service Impact

The service impact of this option varies depending on the particular alternative selected. Restricting name access would have a minimal impact on citizens who access this information on a limited basis and would have no impact on those who can search by address. There would be a major impact on professional or business users of this data who could no longer access and search records from their offices (unless a secured access approach was implemented). County staff would perhaps begin receiving more phone calls from customers who are reluctant to come down to the CCB to do research.

Conclusion

The Ozaukee County Land Information Office Committee and the County Board Information Resources Management Committee anxiously await further guidance from Corporation Counsel on this issue so that the County is able to continue to provide appropriate access to public records.

Attachment A

Users of real property information, as compiled by the Wisconsin Real Property Listers Association

County Offices Treasurer's Office Register of Deeds Zoning Land Information Office Surveyor Clerk Mapping GIS Highway Dept. Land Conservation Ag Dept. Judges District Attorney Corp Counsel Vet. Services Human Services Commission on Aging Sheriff's Dept. Planning Emergency Planning Parks Humane Society Elected Officials	Federal Departments US Marshall FBI IRS Post Office Farm Credit Service/USDA US. Fish & Wildlife Elected Officials	
	Local Government Clerks Assessor Zoning Dept. Planners Elected Officials	
	Private Sector Tax Payer Bankers Surveyors Flood Insurance Co. Title Co. Appraisers Attorneys Realtors Marketing Companies Public Utilities School District Federal Express Planners/Developers Insurance Companies	Cemetery Association Churches Native American Tribes Drainage Districts Special Assessment Districts Credit Bureaus Billing Dept. Hunters Fishermen Foresters Nature Conservancy Private Investigators Genealogists Local Businesses
State Departments Dept. of Revenue Dept. of Natural Resources Dept. of Transportation Historical Society IRS Elected Officials		

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Mr. John Muench
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Dear Mr. Muench:

You have asked whether a county could discharge its duties under the public records law by making its records available as electronic files from a publicly accessible site via the internet. You specifically ask whether a record available as an electronic file from a publicly accessible site via the internet would qualify as "a record which has been or will be promptly published with copies offered for sale or distribution." under section 19.35(1)(g), Stats., of the public records law. In the alternative you suggest that an electronic record, when placed in an electronic file on a public library's computer system so that the public could access the record by computer would qualify as "published material[] ... which [is] available for inspection at a public library."

You raise the questions because Barron County has a growing percentage of its records in electronic files which it can readily distribute over the internet. You suggest that the opportunity to publish these records electronically presents Barron County, and as you suggest, other governmental units, with the "attractive possibility of complying with the Open Records Law while simultaneously reducing demands on county personnel who respond to open records requests."

I conclude that, if expansively read, the statutes you rely on would seem to permit an authority to comply with its duties under the public records law by placing its records on

the internet, but other parts of the public records law and sound public policy raise serious questions about the practice.

As you note, section 19.32(2) which defines "record" exempts from that definition published

materials in the possession of an authority other than a public library which are available for sale, or which are available for inspection at a public library." When discussing another exemption in that statute, the exemption for drafts, the Wisconsin Supreme Court has held that exceptions to the general definition must be narrowly construed and "unless the exception is explicit and unequivocal, it will not be held to be an exception." Hathaway v. Green Bay School Dist., 116 Wis. 2d 388, 397, 342 N.W.2d 682 (1984) quoted in Fox v. Bock,

149 Wis. 2d 403, 411, 438 N.W.2d 589 (1989). The exception for published materials available for inspection at a public library must be narrowly construed. As you note, if read expansively the exception swallows the general definition and an authority would be able to avoid its responsibilities under the public records law simply by making its records available at a library.

In State ex rel. Richards v. Foust, 165 Wis. 2d 429, 477 N.W.2d 608 (1991), the court held that if the document or information requested is not a record under section 19.32(2) the custodian of the record need not even reply to the request because the custodian's duty is to provide a "record" or an explanation of why the access to the record is being denied. If having a record available on the internet satisfied the exception under section 19.32(2) therefore, a record custodian receiving a request for such a record would be under no duty even to inform the requester that the record was available at the public library or on the internet.

The public records law presumes that a record custodian will provide some assistance to a person requesting a record. For example, a request for a record under the public records law is deemed sufficient "if it reasonably describes the requested record or the information requested." Sec. 19.35(1)(h), Stats. If the request is sufficient, it is the custodian's duty to locate and provide the records responsive to the request. The law specifically provides that an authority may charge a fee for locating a record if the actual, necessary and direct cost of locating the record is \$50.00 or more. Sec. 19.35(3)(c), Stats. The law also requires custodians to accept requests by mail. Sec. 19.35(1)(i), Stats.

The county presumably would not make all of its records available on the internet. For example, when providing access to a record the county would be justified in redacting attorney-client communications, personal financial information on individuals, records identifying confidential informants and many other kinds of information. If in response to a written request an authority denies access in whole or in part, the authority must

provide a written statement of the reasons for denying the request and inform the requester of his or her rights under the public records law. Sec. 19.35(4)(b), Stats. It would appear that the county either would have to provide explanations for any redactions along with the document on the internet or inform the individual searching the records on the internet that some information may have been deleted from some records, or some records withheld in their entirety, and direct the individual to the records custodian for determination whether any of the records the individual is interested in have been withheld and a written reason for withholding any of the information.

In short, the public records law requires an authority to do more than simply direct a requester to a public library or the authority's voluminous records. The law requires some assistance in locating, and if necessary copying, the record and requires the custodian to respond to written requests either by providing the records or an explanation of why the records are not being provided. Section 19.34 which requires an authority to post its public records notice at its offices, is further indication that the law presumes that an authority will provide

access to its public records at its offices. Indeed, section 19.34(2) requires each authority which maintains regular office hours at the location where records are kept to "permit access to the records of the authority at all times during those office hours, unless otherwise specifically authorized by law."

For similar reasons, I must conclude that the exception provided in section 19.35(1)(g) for records which have been or will be promptly published with copies offered for sale or distribution does not authorize an authority to publish its records wholesale on the internet and thereby avoid its other responsibilities under the public records law. That exception, like the definitional exception, must be narrowly construed. If read literally and expansively it, like the exception under section 19.32(2), would allow an authority to avoid the public records law in its entirety by the simple expedient either of publishing its records or of offering them for sale.

The internet presents an opportunity for enhancing access to the government and its agencies. When the public records law was promulgated in 1981, the internet, intranets, e-mail and other electronic means of communication were unknown. It would be a mistake to use definitions written in 1981 to frustrate citizen access to records in 1998. Decisions on how to provide access to public records, what to charge for that access and how to make that access as available as possible, involve important matters of public policy which should be addressed by the Legislature. Until the Legislature specifically speaks to the matter, I must conclude that it has not intended the internet to act as a substitute for public access to public records in public offices.

Sincerely,

James E. Doyle

Attorney General