



National Freedom of
Information Coalition

<http://nfoic.org/>

NFOIC supports newspaper in legal action over board of commissioners' email distribution lists

Efforts by *The Carroll County Times* of Westminster, Md., to obtain the lists were rebuffed even after Attorney General opinion that email addresses are not exempt from disclosure under Maryland's Public Information Act.

COLUMBIA, Mo. (May 9, 2013) – A small daily newspaper has been awarded a \$12,500 litigation grant from the Knight FOI Fund after being rebuffed and stonewalled for months in its efforts to get email distribution lists from the board of commissioners in a rural Maryland county.

The National Freedom of Information Coalition (NFOIC), which administers the Knight FOI Fund, awarded the grant to [*The Carroll County Times*](#) of Westminster, Md., after the newspaper's public records requests for the lists were greeted by pleas to back off, intimidation, a legislative effort to change the law and ultimately a legal challenge initiated by county officials.

Even after getting separate opinions from both the Carroll County Attorney and Maryland's Attorney General that email addresses are not exempt from disclosure under state law, the county commissioners refused to turn over email distribution lists to the newspaper and continued their practice of redacting email addresses when providing records through public information requests.

Instead of releasing the requested lists, the commissioners sought an order from circuit court that they could withhold them under a provision in the Maryland's Public Information Act that allows non-disclosure when releasing records "would cause substantial injury to the public interest."

"One of their main points of contention is that it could subject people to cyber-harassment," said Jim Lee, editor of the 25,000-circulation daily. "People give up more information than that on a daily basis, and you don't see their credit cards getting hacked or their bank accounts being tampered with."

"The commissioners think this is their information rather than the public's information," Lee added.

With separate bills introduced in the Legislature this year that would have allowed redaction of private individuals' email addresses before releasing public records, and allowing them to keep their email distribution lists secret, the commissioners had asked the newspaper to wait and see if the laws would be changed. Those legislative measures ultimately failed, although one bill did pass the Maryland State Senate.

Community Research, a Maryland-based open government advocacy group that is one of two NFOIC member organizations in the state, argued against changing the public records law, testifying during a legislative hearing on redacting email address from PIA requests that who sends or receives an email is an intrinsic part of that record.

"It is mind-boggling to me how often public officials around the country feel they are entitled to a pick-and-choose attitude toward public accountability laws," said Ken Bunting, executive director of NFOIC.

"And, when that doesn't get them their way, they want legislators to change the laws based on their situational piques and whims," Bunting added. "It must be an ugly sight for the public."

The NFOIC is a nonpartisan coalition of open government groups and advocates headquartered at the Missouri School of Journalism. The Knight FOI Fund is part of a \$2 million, three-year grant to NFOIC and the University from the John S. and James L. Knight Foundation.

Since it began in January, 2010, the Knight FOI Fund has assisted NFOIC member organizations, their allies, and other litigants with 35 other grant awards in FOI or access cases. While some are still being adjudicated, Knight Fund-supported cases have resulted in 17 favorable court orders or settlements that achieved more transparency or greater access.

In addition to support for meritorious legal access cases under state and local public disclosure and open meetings laws, the Knight FOI fund may also support litigants in anti-SLAPP (Strategic Lawsuits Against Public Participation) suits, SLAPP defenses, important appellate cases and federal FOIA cases where citizen and journalist access to important public record information might be enhanced.

"It is unfortunate when a newspaper or a citizen can be hauled into court for asserting their access rights and acting in the public interest," Bunting said.

NFOIC is a national network of state FOI advocates, citizen-driven nonprofit FOI organizations, academic and First Amendment centers, journalistic societies and attorneys. Its mission is to foster government transparency at the state and local level. A unit of the Missouri School of Journalism, the NFOIC is an affiliate of the Donald W. Reynolds Journalism Institute, and is based at the University of Missouri, home to the nation's oldest FOI Center. For more, visit <http://www.nfoic.org/>.

The John S. and James L. Knight Foundation supports transformational ideas that promote quality journalism, advance media innovation, engage communities and foster the arts. The Foundation believes that democracy thrives when people and communities are informed and engaged. For more, visit <http://www.knightfoundation.org/>.

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