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Case study: Access to public data

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Case study: Access to public data

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Case (for presentation to students)

In the early 1990s the County of Santa Clara, California signed an agreement with a private contractor to convert the County's existing 1'=500' (1:6000)-scale parcel maps to a "digital cadastral base map" (County of Santa Clara 1993, p. 1). To finance the project the County issued a government bond to cover half of the contractor's up-front costs. It executed a cost-sharing agreement with the Santa Clara Valley Water District to pay the other half.

The agreement with the contractor stipulated that the County would own (claim copyright over) the digital base map. However, the County and contractor agreed to split revenues earned through sales of the database to "the broadest possible base of potential users, including , but not limited to, the real estate industry, the community development market, public safety organizations, private industry, government agencies and the general public" (County of Santa Clara 1993, p. 1). The County and contractor anticipated annual sales revenues of $300,000 each within five years of the base map's production. The County planned to use the earnings to subsidize base map maintenance and related GIS services.

In 2005, at the request of a state legislator, the California Attorney General issued an opinion that "parcel boundary map data maintained by a county assessor in an electronic format is subject to public inspection and copying under provisions of the California Public Records Act" (Locklear and Stone 2005, p. 2). Consistent with that Act, the Attorney General's opinion held that government agencies should respond in a timely manner to requests to digital cadastral data, and should provide the data at nominal cost.

A 2006 survey by the Open Data Consortium revealed that 36 of California's 58 counties licensed parcel data at no cost or at the cost of reproduction. Thirteen counties, including Santa Clara,

continued to offer their data for sale at higher costs despite the Attorney General's opinion. In October 2006 the California First Amendment Coalition (CFAC) filed suit against the County, claiming that the parcel data are public documents subject to the California Public Records Act, which states that state agencies "shall make the records promptly available to any person upon payment of fees covering direct costs of duplication" (State of California 2004). In its opposition to the suit Santa Clara County argued that the digital cadastral basemap constituted proprietary software (which is specifically excluded from the Public Records law) and that the loss of licensing fees would undermine support for the County's mapping activities.

With the Superior Court ruling still pending, Santa Clara County suspended sales of its cadastral database in April 2007, citing concerns that "about alerting potential terrorists to the location of pipelines feeding San Francisco water from the Hetch Hetchy reservoir" (San Jose Mercury News 2007a). The County subsequently requested that the database be designated as "critical infrastructure information" by the U.S. Department of Homeland Security. CFAC replied that "'there's nothing sensitive in the database that isn't already available in other public information'" (San Jose Mercury News 2007b).

On May 22, 2007 County Superior Court judge James Klienberg ruled that a digital cadastral basemap is a public record, and that Santa Clara County must provide public access to the data at reasonable cost. On June 14 the County appealed the decision to California Superior Court, stating that the further court action was required "'to help us with the balancing act between the public's interest in knowing and public safety'" (San Jose Mercury News 2007b). In March 2008 the state Superior Court decided to hear the case. A decision is still pending as of October 2008.

Meanwhile, California State legislator Jose Solario proposed changes to California's Public Records Law that would exclude "computer mapping systems" from the definition of "public record" (State of California 2008). As a Certified GIS Professional you are summoned by to a State hearing as an expert witness to answer questions about the proposed legislation. Present your analysis of the case.

References

County of Santa Clara, California (1993). License and Marketing Agreement. Draft, November 15.

Lockyer, Bill and Daniel G. Stone (2005). Opinion 04-1105. Office of the Attorney General, October 3. Retrieved 24 October 2008 from gis.ca.gov/council/docs/Att_Gen_Parcel_Data_04-1105.pdf

San Jose Mercury News (2007a). County Stops Selling its Data for Maps, Claims Security Risk. April 3, p. 1B.

San Jose Mercury News (2007b). County Stops Selling its Data for Maps, Claims Security Risk. June 14, p. 2B.

State of California (2004) California Public Records Act, Government Code Section 6250-6270. retrieved 27 October 2007 from http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=06001-07000&file=6250-6270

State of California (2008) Assembly Bill 1978, An Act to Amend Section 6254.9 of the Government Code. Retrieved 27 October 2008 from http://info.sen.ca.gov/pub/07-08/bill/asm/ab_1951-2000/ab_1978_bill_20080214_introduced.html

Resources for teachers

Suggested discussion points

1. Identify and discuss elements of the GISCI Code of Ethics and Rules of Conduct that pertain to this case.
2. ... other?

Relevant GISCI Code of Ethics

I. Obligations to Society: 2. Contribute to the Community 2.1 Make data and findings widely available. 2.3 Donate services to the community.

II. Obligations to Employers and Funders: 1.4 Define alternative strategies to reach employer goals. 2.6 Accept decision of employers and clients unless illegal or unethical.

Relevant GISCI Rules of Conduct

I. Obligations to Society: 4. Hold paramount the safety, health and welfare of the public

III. Obligations to Colleagues and the Profession: 7. Honor intellectual property rights of others.

Relevant ASPRS Code of Ethics

7. Recognize proprietary, privacy, legal and ethical interests and rights of others.

Epilogue

AB 1978 was withdrawn on April 11, 2008.

Further resources

California First Amendment Coalition (no date). CFAC v. Santa Clara County Retrieved 24 October 2008 from http://www.cfac.org/content/litigation/santaclara.php

Joffe, Bruce (2005). Ten Ways to Support GIS Without Selling Data. *URISA Journal* 16(2-3), pp. 27-33. Retrieved 27 October 2008 from www.urisa.org/files/Joffevol16no2-3.pdf

RAND Corporation (2004). Mapping the Risks: Assessing the Homeland Security Implications of Publicly Available Geospatial Information. Retrieved 27 October 2008 from www.rand.org/pubs/monographs/2004/RAND_MG142.pdf

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