

1977 WL 36981 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

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*1 G. Werber Bryan, Esquire

Bryan, Bahnmuller, King, Goldman and McElveen
P. O. Box 2038
Sumter, SC 29150

Dear Mr. Bryan:

Attorney General McLeod has asked me to respond to your recent request for an opinion.

In your letter you set forth your opinion on several questions involving public access to public records. I generally concur with your analysis as set forth in your letter.

Specifically, you are correct that the Federal Privacy Act of 1974 applies to federal agencies and records only and not to state agency records.

Further, it is correct that under the State's Freedom of Information Act, 1976 Code Section 30-3-10, et seq., that public records are to be made available for public inspection by the custodian thereof. Sufficient assistance must be supplied by the custodian to insure that the viewer can have meaningful access to the record, during normal working hours. In no event should the demand for access be allowed to significantly disrupt the orderly functioning of the public agency. It is obvious that reason is the only criterion to rely on in balancing the competing interests present.

You are also correct that the original record must be available, with copies furnished at a reasonable charge. The fact that records are computerized does not affect the status of a record as being public or non-public.

In addition, I would advise the tax assessor that records relating to, or subject to discussion in, executive session are not subject to public disclosure. Therefore, if in a particular case the county had obtained appraisal information relating to the county's purchase of property, such information would be protected from public disclosure.

Also, attention should be drawn to the statutory definition of public record, which excludes any record concerning which it is shown that the best public interest is served by non-disclosure. This is a decision to be applied only on a case by case basis.

Mr. Bryan, it is difficult to give a general reply to a freedom of information question, because of the vastly different factual situations which may occur in a particular case. However, I hope the information in your letter and my letter will shed some light on the subject.

Sincerely,

George C. Beighley
Assistant Attorney General

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