

## Countryman, Ryan

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**From:** Tom McCormick <tommccormick@mac.com>  
**Sent:** Wednesday, March 18, 2015 3:56 PM  
**To:** White, Clay  
**Cc:** Killingstad, David; Countryman, Ryan; Rowe, Tom; Tom Mailhot; Clifton, Stephen; Phillips, Suzie; Debbie Tarry  
**Subject:** Overreaching - draft public disclosure protocol  
**Attachments:** DOCS-#964430-v1-PDS\_PDR\_Protocol.pdf

It's a good thing that ours is a government of laws and not of men.

If the Point Wells developer (BSRE) had its way, PDS would be required to "provide BSRE with not less than ten (10) days advance notice of its intended response to **any** public records disclosure request. [emphasis added] Such notice shall include a copy of the disclosure request and an itemization of the documents or other materials which PDS intends to disclose in response thereto. BSRE shall, in such event, have not less than 10 days from the receipt of such notice to seek a court order preventing such release. PDS shall not make such disclosure(s) prior to the latter of 1) the passage of such 10 day period without BSRE seeking such a court order; or 2) the final determination, with all applicable appeal periods having run, of such Court review and ruling regarding the disclosure of such documents." See the attached draft Point Wells Mixed-Use Redevelopment Public Disclosure Protocol, that Gary Huff, BSRE's attorney, emailed to Snohomish County on February 9, 2015, asking the County to "let me know if this is OK or if you have questions or concerns."

Public records in our state are sacred documents. The Public Records Act declares: "The people of this state do not yield their sovereignty to the agencies that serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may maintain control over the instruments that they have created. This chapter shall be liberally construed and its exemptions narrowly construed to promote this public policy and to assure that the public interest will be fully protected. ..." RCW 42.56.030. The Act further provides: "Courts shall take into account the policy of [the Act] that free and open examination of public records is in the public interest, even though such examination may cause inconvenience or embarrassment to public officials or others." RCW 42.56.550(3).

As someone who continues to seek public records pertaining to Point Wells, I am grateful that the County rejected BSRE's draft Point Wells Mixed-Use Redevelopment Public Disclosure Protocol, which asks the County to provide BSRE with advance notice of the County's intended response to any public records disclosure request. See David Killingstad's February 13, 2015, email to Gary Huff. BSRE's draft protocol is an overreaching attempt to keep the public in the dark. It violates the Public Records Act, including RCW 42.56.540 RCW and WAC 44-14-04003(11). Giving advance notice to BSRE when records could not reasonably be considered exempt would have a chilling effect on the public's right to see all public records pertaining to Point Wells, and would have the effect of unreasonably delaying a requestor's access to a disclosable record. The County and its professional staff have proven to be quite capable of forming an opinion as to what public records are exempt from disclosure. Given that the "people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know," RCW 42.56.030, surely the people would never approve of letting BSRE, a private party, interfere with the County's determinations as to what records should be disclosed to the public.

No one can be allowed to interfere with the public's right to remain informed about Point Wells. And no one can be allowed to interfere with the public's right to contest the dumping of a massive development onto the doorsteps of two quiet and historic single-family residential neighborhoods, a massive development that would flood our quiet residential streets with 11,000+ ADTs.

Once again, thank you for rejecting BSRE's draft Point Wells Mixed-Use Redevelopment Public Disclosure Protocol.



To: Gary Huff <GHuff@karrtuttle.com>

Cc: Douglas Luetjen <dluetjen@karrtuttle.com>, Steve Ohlenkamp (steveo@tcgnet.net) <steveo@tcgnet.net>, Countryman, Ryan </O=SNOHOMISH/OU=County/cn=Recipients/cn=scdrmc>, Brunner, Gretchen Brunner <gbrunner@eaest.com>, Schipanski, Richard Schipanski <rschipanski@eaest.com>, White, Clay </O=SNOHOMISH/OU=EXCHANGE ADMINISTRATIVE GROUP /CN=RECIPIENTS/CN=SCDCSW>, Rowe, Tom </O=SNOHOMISH/OU=County/cn=Recipients/cn=scdttr>

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RE: draft public disclosure protocol

We met to discuss the attached public records protocol. Planning and Development Services will not be signing the agreement nor do we intend to enter into such an agreement. As was previously agreed to by Clay, we are amenable to a disclaimer being placed on all draft documents. Also, should you wish to obtain documents that are part of a public record request from a member of the public you will need to submit your own records request. Lastly, Ryan Countryman will be taking over as project manager permanently as he successfully competed for a Principal Planner position.

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**From:** Gary Huff [<mailto:GHuff@karrtuttle.com>]

**Sent:** Monday, February 09, 2015 3:30 PM

**To:** Killingstad, David; Countryman, Ryan

**Cc:** Douglas A. Luetjen; Steve Ohlenkamp ([steveo@tcgnet.net](mailto:steveo@tcgnet.net))

**Subject:** draft public disclosure protocol

David and Ryan —Please take a look at this draft and let me know if this is OK or if you have questions or concerns.

Thanks.

Gary

GARY D. HUFF

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