



Building Industry Association of Washington

Post Office Box 1909 • Olympia, WA 98507 • 1-800-228-4229 • (360) 352-7800

NEWS RELEASE

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CONTACT: Erin Shannon
Public Relations Director
1-800-228-4229

State Auditor Weighs In On Pierce County Lawsuit

OLYMPIA—Today Washington State Auditor Brian Sonntag filed a declaration in Pierce County supporting BIAW’s motion for reconsideration in the association’s lawsuit against Pierce County Auditor Pat McCarthy for violating public disclosure laws.

Two weeks ago Thurston County Superior Court Judge Anne Hirsch ruled the deletion of e-mails by the Pierce County Auditor’s Office did not violate state public record laws. Hirsch made this ruling despite clearly worded language of the Public Records Act, which mandates archiving of all government generated documents, including e-mails, via a retention schedule.

The case began when McCarthy’s office refused to disclose public records related to fraudulent voter registration forms turned in by the Association of Community Organizations for Reform Now (ACORN).

After learning of the thousands of fraudulent voter registration forms submitted to King and Pierce Counties in February, BIAW filed a public records request with the two counties, and the Secretary of State’s Office. Although King County and the Secretary of State’s Office complied with the public records request, McCarthy’s office responded that some of the requested documents, specifically e-mails, had been deleted.

According to Pierce County’s deputy prosecuting attorney, the county is allowed to delete e-mail public records at will and the auditor has no duty to retain such records.

State Auditor Sonntag, however, argues in his declaration that deleting e-mails is not acceptable by government workers. The brief notes that “in performing audits, the State Auditor’s Office relies on documents in all forms—paper and electronic—to do its work...in order to conduct audits, the Auditor may need to review every type of document a government prepares, owns, uses or retains.”

“The idea that a government employee can routinely delete e-mails at their discretion is completely contradictory to both the spirit and letter of our state’s public records law,” said BIAW Executive Vice President Tom McCabe. “If Hirsch’s decision is not reversed, government will have a powerful tool to hide potentially incriminating documents from the public,” said McCabe. “What then, is the point of even having a public records law?”

Known as the “voice of the housing industry,” the Building Industry Association of Washington is the largest trade association in Washington State, representing over 350,000 families and 12,700 member companies involved in the homebuilding business.