

CLIENT NEWS BRIEF

California Supreme Court Rules that Public Employers Must Disclose to Unions Home Addresses and Telephone Numbers of All Represented Employees

In *County of Los Angeles v. Service Employees International Union, Local 721* (May 30, 2013___ P.3d___ (2013 WL 2348163)), the California Supreme Court held: (1) unions have a presumptive entitlement to contact information for all employees they represent, including those who have not joined the union; (2) although public employees have a privacy interest in their home addresses and telephone numbers, the balance of interests strongly favors disclosure of this information to the union that represents them; and (3) failure of the employer to provide the information violated the employer's obligation to bargain in good faith.

Service Employees International Union (SEIU) Local 721 requested from the County of Los Angeles home addresses and telephone numbers for county employees in the bargaining units that SEIU represented. The County rejected the request, and SEIU filed a charge with the Los Angeles County Employee Relations Commission (ERCOM), an organization which performs the same function for the County that the Public Employment Relations Board (PERB) performs for other public employers in California.

ERCOM found that the County had engaged in an unfair labor practice by withholding the home addresses and telephone numbers of county employees. This decision was appealed. The court of appeal reversed, finding that because the employees who had not joined the union were not provided an opportunity to object to the disclosure of their contact information, SEIU was not entitled to the information.

The California Supreme Court reversed, finding the County was obligated to provide the contact information to the union. The court explained that PERB, relying on decisions from the NLRB, has found that a union is entitled to obtain all information necessary and relevant to representing employees in collective bargaining, including names, home addresses and home telephone numbers. Further, PERB has interpreted the obligation to bargain in good faith to require employers to disclose home contact information for all represented employees to the union, regardless of whether they have joined the union or have consented to the disclosure.

The court, deferring to PERB's interpretation, found that home address and telephone numbers are presumptively relevant to collective bargaining. The employer has the burden of proving the information lacks relevance. In this case, the County had not met this burden, and the contact information sought by SEIU was therefore relevant to the union's purpose of representing employees. In further reliance on PERB decisions, the court also found the County's failure to disclose the information violated its obligation to bargain in good faith with SEIU.

Lastly, the court evaluated the public employees' privacy interests in their home contact information. The court found that the represented, non-member employees have a legally protected privacy interest in their home contact information because they have an interest in avoiding unwanted

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communication. The court determined that those employees had a reasonable expectation of privacy in this information because the County had a long-standing practice of not disclosing it to the union. Also, the disclosure of home contact information was a serious invasion of privacy as the employees have a non-trivial interest in avoiding unwanted union related mail, phone calls and home visits. However, the court found that the invasion of privacy was justified in this case because the union's duty is owed to *all* employees that the union represents, including those that decline to become members. Accordingly, the union must have a way to communicate with represented, non-member employees.

Following *County of Los Angeles v. SEIU*, public employers are required to disclose home addresses and telephone numbers to the unions representing their employees. However, they may take steps to further protect the privacy interests of their employees. First, public employers may negotiate with unions to implement procedures for providing notice to employees of the required disclosure, and procedures for allowing employees to "opt-out" of the disclosure, thereby preserving the privacy of the employees' home contact information. Second, public employers may incorporate notice of the disclosure directly into employment contracts, and allow employees to request the information be withheld from the union. Additionally, it is possible that agencies such as PERB or ERCOM may themselves develop and require compliance with notice and opt-out procedures to preserve the confidentiality of employees' home addresses and telephone numbers.

If you have any questions regarding this decision or disclosure of employee information to unions in general, please feel free to contact one of our [eight offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#), or download our [Client News Brief App](#).