

Under the Public Records Act, agencies must allow access to land use databases.

The California Supreme Court has unanimously held that a public agency must allow access to a database of information on land use parcels, rejecting the claim that such information is subject to the "computer software" exemption under the Public Records Act. [Sierra Club v. Superior Court](#), No.S194701 (July 8, 2013).

Section 6254.9(a) of the Public Records Act provides that "Computer software developed by a state or local agency is not itself a public record under this chapter" and that the "agency may sell, lease, or license the software for commercial or noncommercial use." The Sierra Club requested a copy of the Orange County Landbase -- a database of information on land parcels in geographic information systems (GIS) format -- under the Public Records Act. The County claimed the database was exempt computer software, and conditioned access to the data upon payment of a licensing fee and restrictions on disclosure and distribution. The Sierra Club sued to compel unrestricted disclosure.

At issue before the Court was whether the statutory exemption, which expressly includes "computer mapping systems," encompasses mapping data or only mapping software. The Court determined that the term "software," as used in the Act, was commonly understood to be distinct from the data upon which the software operates. The Court found that a dictionary definition contemporaneous with the 1988 adoption of the exemption -- as "programs and procedures required to enable a computer to perform a specific task" -- supported this interpretation. The Court also observed that the legislature had given a similar definition to the term "computer software" in 2004 in another statute, and that a 2005 Attorney General opinion had concluded that parcel map data maintained in an electronic format by a county assessor does not qualify as a "computer mapping system" under the exemption. The Court also emphasized that to the extent the statutory language was ambiguous, the California Constitution required the statute to be broadly construed because "it furthers the people's right of access" Cal. Const., art. I §3(b).

Based on its determination that the OC Landbase was not excluded from the definition of a public record under the Act, the Court ordered the County to produce the OC Landbase at a cost not to exceed the direct cost of duplication.

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