

Waste collection payment records as public records

Number: AGO 88-57

Date: December 18, 1997

Subject:

Waste collection payment records as public records

Ms. Joann G. Slay
County Attorney
Gadsden County
Post Office Drawer 391
Quincy, Florida 32351

RE: COUNTIES—RECORDS—records of county payments relating to waste collections services subject to disclosure.

Dear Ms. Slay:

You ask substantially the following question:

Are county records of payments made by individuals to the county for waste collection services public records subject to Ch. 119, F.S., the Public Records Law?

In sum, I am of the opinion:

County records of payments made by individuals to the county for waste collection services are public records subject to the inspection and copying requirements of Ch. 119, F.S., absent a statutory exemption.

Chapter 119, F.S., Florida's Public Records Law, requires that all public records be open at all times for personal inspection by any person.[1]

Section 119.011(1), F.S., defines "public records" to include

"all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency."

The Florida Supreme Court in *Shevin v. Byron, Harless, Schaffer, Reid and Associates, Inc.*, construed the definition of "public records" in s. 119.011(1), F.S., to include "any material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type." [2] Thus, records maintained by the county to "perpetuate, communicate, or formalize" knowledge of the payments by individuals for waste collection services fall within the definition of "public records." [3]

The Public Records Law sets forth specific exemptions or exceptions from its application in s. 119.07(3), F.S. Section 119.07(3)(a), F.S., further provides that "[a]ll public records which are presently provided by law to be confidential or which are prohibited from being inspected by the public, whether by general or special law, are exempt from the provisions of subsection (1)."

In *Wait v. Florida Power & Light Company*,^[4] The Florida Supreme Court construed s. 119.07(3), F.S. (then s. 119.07(2), F.S.), and determined that only those public records that are provided by statute to be confidential or which are expressly exempt by statute from disclosure or inspection are exempt from the disclosure provisions of Ch. 119, F.S.

I have not found, nor have you brought to my attention, any statutory exemption or exception for public records such as you have questioned. In the absence of such an exemption or exception, I am of the opinion that county records of payments made by individuals to the county for waste collection services are public records subject to the inspection and copying requirements of Ch. 119, F.S.

Sincerely,

Robert A. Butterworth
Attorney General

RAB/tls

[1] Section 119.01(1), F.S., providing "[i]t is the policy of this state that all state, county, and municipal records shall at all times be open for a personal inspection by any person."

[2] 379 So.2d 633, 640 (Fla. 1980).

[3] Cf. AGO 74-35, in which this office concluded that the records of a city owned and operated electrical utility system are open for inspection under Ch. 119, F.S.

[4] 372 So.2d 420 (Fla. 1979).