

From Tom Kearney

Managing editor of the Stowe Reporter and Waterbury Record

The committee members are addressing the 200-plus exemptions in the public records law piece by piece, and I salute their diligence.

I'd like to focus on strategy and procedures that can protect the integrity of the public records law for the long term.

For instance:

- No additional exemptions should be added to the state's public records laws without review by the House and Senate Government Operations committees. Otherwise, the committee is shoveling sand against the tide. This practice would allow the Legislature to keep a handle on exemptions, which have grown willy-nilly over the years.
- Exemptions should not be created through rule-making without review and approval by the Government Operations committees. Sometimes, rulemaking exceeds the breadth of the statute.
 - One example: The Department of Safety, in writing rules for proposed medical marijuana dispensaries, decided that the locations for these facilities should be kept secret — although the law did not provide specifically for that. So, a homeowner would not be able to know that

marijuana would be sold next door until the dispensary opened. State safety officials said they thought local zoning laws would bring the locations to light, but if the use is already permitted, then secrecy prevails. This simply wasn't thought through. My appeal to the Department of Safety was rejected, and I didn't go to court because I took a new job — which, as you can see, didn't last; I've been back at the Stowe Reporter since June.

- We're worried about a trend toward creating specific exemptions for specific records, including records involving industries regulated by government. Our members tell us they understand that the state Attorney General's Office has been advising state agencies that they NEED specific exemptions like these for an effective defense against lawsuits. A general exemption (protecting individual privacy rights, for example) isn't good enough.
 - My belief is the opposite: If the exemption is truly warranted, then a broader approach should be sufficient, and a broader approach would retain the commitment to openness that led to passage of the public records act in the first place.

- Finally, it would make sense for the Legislature to have someone — the attorney general, the secretary of state, perhaps the legislative council — issue a thorough, annotated interpretation of the state's laws on open meetings and public records. New Hampshire has a quite useful one. It explains each section of the law, along with thumbnail summaries

of court rulings in cases involving each section, and what a citizen can expect to be able to obtain. For a law that is enforced only by the citizenry, this kind of information would be very useful.