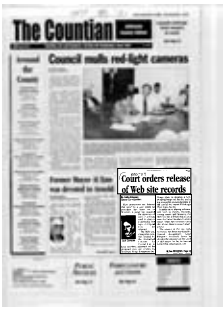


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800-114
**Court orders release
of Web site records**

By Cathy Kingsley
Special Correspondent

How anonymous are Internet chat sites? In a case where no precedent has been set in Missouri, a judge has required the identities of users in a forum used to discuss a particular hot topic in Crystal City be released.



Jack Ginnever

The Web site, clearpillar.com, was created by the Concerned Citizens for Crystal City to keep members informed on the proposed iron ore smelter by developer Wings Enterprises Inc.

Wings plans to develop a bulk shipping barge/rail facility and a pig iron pellet processing plant at the site of the vacant Pittsburgh Plate Glass facility.

In addition to sharing information such as events, elections, zoning issues and lawsuits, the Web site has a forum that allows users to chat online about various topics. Users have a screen name that allows them to remain anonymous.

The creator of the site, Jack Ginnever, has been mandated by Special Assignment Judge Benjamin Frederick Lewis to divulge the identities of the users in this forum. So far, he has not turned that information over.

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RECORDS: Higher courts denied applications to reverse decision

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"It is my opinion that this forum has been a valuable asset to the communities in and around Crystal City, allowing people to speak freely without fear of retribution," Ginnever posted on the Web site. "I do not want that to change. I will not divulge this information to the attorneys or anyone else."

Information that he has stored in the system include the IP addresses from where the posts originated and the users' e-mail addresses.

"While this does not necessarily identify a person, in certain circumstances it can be convincing evidence of a person's identity," Ginnever says.

Ginnever is involved in a lawsuit against the city for alleged violations of the Sunshine Law. The plaintiffs claim that the Crystal City Council violated the Sunshine Law on a number of occasions, in particular when they signed a confidentiality agreement in 2006 that prohibited council members from discussing plans to purchase the property and to allow a smelter.

According to city attorney

Ginnever believes the records are being sought as evidence that someone on the Web site may have had prior knowledge about the agreement between the city and Wings, before it was released.

David Senkel of Thurman, Howald, Weber, Senkel & Norrick, LLC, Ginnever has been compelled to turn over information from the Web site and respond to certain questions. In a deposition by Wing's attorney Bryce Bartlett of Husch Blackwell Sanders LLP of Ginnever in January, attorney Kathleen Henry of Great Rivers Environmental Law Center objected to a question that was asked of Ginnever, instructing him not to answer.

Wings' attorney then filed a motion to compel Ginnever to produce the documents requested and answer the question. That

motion was argued in February. On June 3, Lewis sustained the motion to compel on both counts.

Henry then filed a writ of prohibition application with the Court of Appeals to prohibit Lewis from requiring the documents. It was denied. A similar application was filed with the Missouri Supreme Court, but on Aug. 25, that writ was denied as well.

"All three courts ruled that the questions being asked were proper and appropriate," Senkel said.

Ginnever believes the records are being sought as evidence that someone on the Web site may have had prior knowledge about the agreement between the city and Wings, before it was released. He says the ACLU may file a brief on his behalf.

Ginnever says he knows of no other Missouri case in which users' identities from a Web site have been forced to be revealed.

A motion for summary judgment filed by Henry will be argued on Dec. 16. The court will also hear arguments on the joint motion of the city and Wings for judgment on the pleadings.

The case is set for a non-jury trial on Feb. 3-5, 2010.

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