COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

BARRY GOLDWATER INSTITUTE FOR PUBLIC POLICY RESEARCH, Plaintiff / Appellant v. CITY OF PHOENIX; JEFF BARTON; DENISE ARCHIBALD, and SHEREE RUCKER, Defendants / Appellees.	No. 1 CA-CV 24-0176 Maricopa County Superior Court No. CV 2023-003250

PLAINTIFF/APPELLANT'S OPENING BRIEF

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INTRODUCTION

When the City of Phoenix ("City") negotiates with the Phoenix Law Enforcement Association ("PLEA"), the result is a Memorandum of Understanding ("MOU") allocating hundreds of millions of dollars in taxpayer funds and implementing policies that affect some of the most critical public safety services taxpayers enjoy. During the negotiation process, City and PLEA representatives exchange specific written proposals about what each party would like to see (or not see) in the MOU. What's more, both sides of the negotiating table are full-time government employees, being funded by taxpayers before, during, and after the negotiation process.

Despite the monumentally important policy decisions that are being made at the negotiation table that result in the outlay of enormous taxpayer resources—and despite the fact that the entire process, and all records produced during it, are directly funded by taxpayers—the City has refused to disclose to the public the written records that are prepared during the negotiations. This is true even though these records are plainly public records subject to the Public Records Law (PRL), and even though no express statutory provision exempts them from disclosure.

Instead, the City claimed (and the court below agreed) that the narrow "best interests of the state" exception to the PRL—an exception the City bears the burden of proving—outweighs the significant public interest in the records under

the balancing test set out in *Carlson v. Pima County*, 141 Ariz. 487, 490–91 (1984).

The court below misapplied that test, however, and failed to require the City to carry its "burden of showing the *probability that specific, material harm will result from disclosure*." *Mitchell v. Superior Ct.*, 142 Ariz. 332, 335 (1984) (emphasis added). Instead, the court based its decision on the mere "*potential*," APP.012, APP.015, for generalized, abstract harms—as opposed to the "*probability* [of] *specific, material* harm" required for the exception to apply. *Mitchell*, 142 Ariz. at 335.

Worse still, the purported potential harms identified by the City and the trial court *already occur*, and therefore do not (and would not) "*result from* disclosure," which, again, is the standard required for a PRA exception. *Id.* In any event, the heightened public interest in and importance of the requested records greatly outweighs the speculative harm that may result from their disclosure. By denying the public access to these records, the court below erred, and must be reversed.

STATEMENT OF THE CASE

On March 1, 2023, Appellant Goldwater Institute ("Appellant" or "Goldwater") filed a verified statutory special action complaint under the PRL (A.R.S. § 39-101–39-171), challenging the City of Phoenix's denial of a public records request which sought draft MOUs and written proposals exchanged

between the City and PLEA during "meet and confer" negotiations. IR.1. Goldwater sought an order compelling production, as well as declaratory, injunctive, and other relief. *Id.* at 14.

After a Show Cause Hearing, preliminary briefing, *see* IR.18; IR.21; IR.23, and preliminary oral argument, the Superior Court issued an Under Advisement Ruling on May 22, 2023, purportedly "denying Goldwater's request for special action and injunctive relief." IR.30 at 5.

However, the court subsequently ordered an evidentiary hearing, IR.37 at 2, which was held on December 12, 2023. Following that hearing, the court issued another Under Advisement Ruling "denying the Institute's request for special action and injunctive relief." APP.016.

On February 6, 2024, the court entered a final judgment finding that "the best interests of the state weigh against the disclosure of the records requested by Plaintiff" and ordering "that Defendants are not required to produce the requested records; … that Defendants are not required to produce bargaining proposals from a negotiation cycle until the next memorandum of understanding has been finalized; and … that each side shall bear its own attorneys' fees and costs." IR.69 at 1–2.

Goldwater timely appealed on February 13, 2024. IR.70.

STATEMENT OF FACTS

Under the City's "meet and confer" ordinance, which establishes bargaining procedures for labor negotiations, unions are supposed to submit proposed draft memoranda of understanding ("MOUs") for public comment before closed-door negotiations begin. APP.004 ¶ 6; APP.005–6 ¶¶ 14–16.

In the 2022–2023 bargaining cycle, that didn't happen. APP.006 ¶ 23. Instead, PLEA[1] (following the lead of other unions) merely submitted a letter expressing an intent to negotiate a new MOU. *Id*. ¶ 22. This deprived the public of an opportunity to meaningfully comment on any of PLEA's proposals (or the City's response, which is also supposed to be published in writing prior to negotiations) before closed negotiations began. APP.006–7 ¶¶ 17, 24–28; APP.037–38 at 21:18–22:14. The City acknowledged that PLEA failed to comply with the ordinance, but proceeded to engage in negotiations anyway. APP.006–7 ¶¶ 21, 26–29. The wages of both City and union[2] negotiators are funded by taxpayers. APP.005 ¶¶ 12–13.

[1] PLEA is the authorized meet-and-confer representative for Phoenix police officers below the rank of Sergeant, comprising bargaining Unit 4. APP.005 ¶ 7.
[2] Union negotiators are release-time City employees, meaning they are hired and paid by the City, but "released" to work for the union. APP.005 ¶ 13, APP.174–75 at 158:21–159:19, APP.187–88 at 171:19–172:15.

During "meet and confer" negotiations, the City and PLEA exchange written[3] proposals containing proposed terms and conditions of employment. *Id.* ¶ 10. The City admits these documents are public records within the meaning of A.R.S. § 39-121.01. APP.005 ¶ 11.

On December 19, 2022, Goldwater submitted a public records request for: [1] "[a]ll draft [MOUs]" between the City and PLEA contemplated for the fiscal year(s) beginning July 1, 2023; [2] "[a]ll proposals for MOUs currently being negotiated—or set to be negotiated per City Code Section 2-218" between those parties for the same time period, and [3] "[a]ny communications to or from City officials regarding PLEA's failure to submit a draft MOU for the fiscal year(s) beginning July 1, 2023." APP.007 ¶ 30. This request was renewed on January 20, 2023. APP.008 ¶ 36.

The City admits it has approximately 54 written proposals responsive to Goldwater's request, APP.010 ¶¶ 42, 45, but it ultimately denied the portion of the request (item 2[4]) pertaining to those records, asserting the "best interests of the state" exception to the Public Records Law. APP.008–10 ¶¶ 37, 41, 43.

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[3] The City and the unions also negotiate orally in closed sessions. Each side can break to engage in private oral conversations amongst themselves ("caucuses"), and the negotiators can speak privately away from the formal negotiation if needed ("sidebars"). *See* APP.192–94 at 176:1–178:1.

[4] The City produced two records responsive to item 3, APP.007 ¶ 31, APP.009 ¶ 41, but also denied item 1 of the request regarding draft MOUs, initially on grounds that no responsive records existed, APP.008 ¶¶ 34–35, and subsequently

Goldwater initiated this statutory special action on March 1, 2023.[5] APP.010 ¶ 46; IR.1. The principal fact disputed below concerned the impact of disclosure of the records.

During the evidentiary hearing, Appellant called two lay witnesses: Isabel Garcia, a Community Safety Strategist with Phoenix-based advocacy group Poder in Action, and Joseph Robert Shoplock, Jr., the President of the Professional Fire Fighters of Idaho. Appellant also presented expert testimony from Robert Brown, a labor negotiator who has over 40 years of experience in the field of public sector labor negotiations on both the government and union sides of negotiations. The City called four lay witnesses: Jason Perkiser, the City's lead negotiator; PLEA President Darrell Kriplean; Frank Piccioli, President of AFSCME Local 2960; and Bryan Willingham, President of United Phoenix Firefighters, Local 493. Each of the lay witnesses submitted declarations in lieu of extensive direct testimony, APP.243–47; APP.279–94, APP.030–33 at 14:4–17:20, APP.054–58 AT 38:19–42:5, APP.134–36 at 118:24–120:3, APP.157–58 at 141:16–142:10, APP.173–74 at 157:18–158:14, APP.186–87 at 170:12–171:15, and Mr. Brown's expert report

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on the grounds that they would only be released once the MOU was finalized. APP.007 ¶ 32, APP.009–10 ¶¶ 41, 44. This suit covers both items 1 and 2 (MOU drafts and proposals), though the filings and discussion focus principally on item 2.

[5] Negotiations had not yet concluded. After a final agreement was reached between the City and PLEA, the City Council ratified the 2023-2024 MOU on or about May 3, 2023. APP.010 ¶¶ 48–49.

was likewise submitted in lieu of extensive direct testimony. APP.261–77; APP.084–85 at 68:13–69:25.

The trial court accepted the City's claims that disclosure of meet and confer documents "*may* result in politicizing labor negotiations, collusive activities among bargaining units, public posturing by negotiators, and hindering the free exchange of ideas or proposals without undue influence of constituents." APP.012 (emphasis added).

But other evidence at trial demonstrated that labor negotiations are already politicized,[6] that collusive activities among bargaining units already occur,[7] that public posturing can occur regardless of whether records are disclosed,[8] and that constituents have an impaired role in the process of getting to a final MOU.[9] The testimony demonstrated that negotiations would be no more politicized than they are currently,[10] and that the bargaining units would not collude any more if the records were disclosed than they do now.[11]. Further, the City failed to point to a

[6] APP.244–51; APP.267, APP.270–71; APP.109–11 at 93:2–95:3, APP.127–31 at 111:7–9, 111:16–112:17, 113:5–9, 114:18–115:17, APP.163–67 at 147:4–151:10; APP.27.
[7] APP.268–69; APP.099 at 83:4–11, APP.162–63 at 146:7–147:3, APP.169–70 at 153:22–154:15, *see also* APP.226 at 210:20–21 ("THE COURT: It sounds like they're already [colluding].").
[8] APP.116 at 100:1–3, APP.129–30 at 113:10–114:5.
[9] APP.244–47, APP.036–53 at 20:2–37:1, APP.131–32 at 115:18–116:10.
[10] APP.267, APP. 270–71; APP.128 at 112:5–17, APP.200 at 184:9–12.
[11] APP.119 at 103:1–25, APP.141–42 at 125:5–126:13.

single example, anywhere in the country, where disclosure of similar records caused such harms.[12] Conversely, Appellant provided a concrete example from another jurisdiction[13] where disclosure of the same types of records was not only sought by *unions*, but successfully so—and the disclosure did not result in the City's stated harms.[14]

In short, there is not (**and the court below did not find**) a *probability* that disclosure of MOU proposals exchanged during the "meet and confer" process would cause specific, material harm. The principal impact of disclosure would be increased transparency, which is the very purpose of the PRL and the law's presumption in favor of disclosure. *See, e.g.*, *Phoenix Newspapers, Inc. v. Keegan*, 201 Ariz. 344, 351 ¶ 33 (App. 2001); *Moorehead v. Arnold*, 130 Ariz. 503, 505 (App. 1981) ("The objective of legislation such as A.R.S. § 39-121 is to allow disclosure and limit secrecy." (citations omitted)).

[12] APP.126–27 at 110:8–111:15, APP.142–43 at 126:5–127:22, APP.145–46 at 129:7–130:21, APP.149 at 133:4–15, APP.179 at 163:2–11, APP.184–85 at 168:18–169:3, APP.198–200 at 182:21–184:12, *see also* APP.240–41 at 224:12–225:5.

[13] In fact, Appellant's expert witness, Mr. Brown, pointed to several additional jurisdictions beyond Idaho (Florida, Texas, and Washington) with transparent labor negotiations and a lack of the City's feared harms. APP.273; APP.104 at 88:13–20, APP.121–22 at 105:20–106:9, APP.126 at 110:8–24.

[14] APP.252–55; APP.075–78 at 59:5–62:6.

STATEMENT OF THE ISSUES

1. Did the trial court err as a matter of law by applying a standard of speculative or potential harm rather than requiring the City to carry its "burden of showing the *probability that specific, material harm will result from disclosure*," *Mitchell*, 142 Ariz. at 335 (emphasis added)?

2. Did the trial court err in concluding that the "best interests of the state weigh against the disclosure" of documents exchanged during "meet and confer" negotiations between the City and PLEA, when such documents are produced in a process funded by taxpayers and reveal critical information about the allocation of hundreds of millions of dollars in taxpayer money on significant policy questions affecting public safety?

STANDARD OF REVIEW

The Court reviews *de novo* whether the trial court properly denied the public access to public records. *Cox Ariz. Publ'ns, Inc. v. Collins*, 175 Ariz. 11, 14 (1993).

This Court "determine[s] *de novo* whether … the trial court properly applied the law" and "view[s] the facts and inferences drawn from those facts in the light most favorable to the party against whom judgment was entered." *Korwin v. Cotton*, 234 Ariz. 549, 554 ¶ 8 (App. 2014) (citation omitted).

ARGUMENT

I. The trial court erred by failing to require the City to show a *probability* that *specific, material* harm *will result* from disclosure.

Public records may only be shielded from public disclosure if one of three narrow exceptions apply: (1) the records are made confidential by statute, (2) the records include privacy information, or (3) disclosure of the records would harm the best interests of the state. *See* *Scottsdale Unified Sch. Dist. No. 48 v. KPNX Broad. Co.*, 191 Ariz. 297, 300 ¶ 9 (1998). The only exception at issue here is the third one—whether the best interest of the state outweighs the public's right to information about the operations of its government.

"Discretionary refusal to disclose based on the best interests of the state is subject to judicial scrutiny." *Hodai v. City of Tucson*, 239 Ariz. 34, 38 ¶ 7 (App. 2016). "[T]he court determines whether the government's proffered explanation of public harm outweighs the policy in favor of disclosure." *Id.* at 39 ¶ 8.

Importantly, "[the] 'best interests of the state' standard is not confined to the narrow interest of either the official who holds the records or the agency he or she serves. It includes the overall interests of the government *and the people*." *Id.* at 38 ¶ 7 (emphasis added) (quoting *Keegan*, 201 Ariz. at 348–49 ¶ 18). "The government has the burden of specifically demonstrating how production of documents would be detrimental to the best interests of the state." *Id.*, at 38 ¶ 7 (citing *Cox*, 175 Ariz. at 14).

Countervailing state interests to be weighed against the presumption of disclosure must be considered on a case-by-case basis, not only for each request but for each individual record. *Bolm v. Custodian of Recs. Tucson Police Dep't*, 193 Ariz. 35, 40 ¶ 13 (App. 1998). The government has the burden to "specifically demonstrate" how a competing interest overcomes the presumption of disclosure. *Phoenix Newspapers, Inc. v. Ellis*, 215 Ariz. 268, 273 ¶ 22 (App. 2007) (citation omitted).

The "probability that specific, material harm will result from disclosure" must be shown. *Mitchell*, 142 Ariz. at 335. "[G]eneralized claims of broad state interest" are not enough, and the Supreme Court has rejected using a blanket rule exempting categories of documents from disclosure. *Cox Ariz. Publ'ns*, 175 Ariz. at 11, 13–14; *see also 12-20 v. Town of Marana*, 254 Ariz. 393, 399 ¶ 18 (App. 2022) (town's "blanket policy of redacting names defeats the burden *Carlson* places on public entities to presumptively disclose information unless a specific [exception] outweighs that disclosure"). The Court has jurisdiction to determine whether the government has met its burden of proving that the best interest of the state outweighs the public's right to public records. *Mathews v. Pyle*, 75 Ariz. 76, 81 (1952).

A. The Superior Court found only "*potential* material harm."

The court below found that "the testimony presented by the City establishes *potential* material harm (i.e., *potential* for undue pressure, impasse, and collusion) that outweighs the presumption in favor of disclosure." APP.015.

But establishing "*potential*" harm—a greater than zero chance that may never occur—is not the standard that the law requires to prevent disclosure of public information. Rather, the City must establish a *probability* of specific, material harm, *Mitchell*, 142 Ariz. at 335—a greater chance that an actual and concrete harm will occur than not occur. *Compare* "Potential," Black's Law Dictionary 1413 (11th ed. 2019) ("Capable of coming into being; possible if the necessary conditions exist"), *with* "Probability," *id.* at 1454 ("Something that is likely; what is likely … [t]he quality, state, or condition of being more likely to happen or to have happened than not; the character of a proposition or supposition that is more likely true than false.").

The Supreme Court set out the "probability of specific material harm" standard in *Mitchell*, which has been applied consistently by Arizona courts since 1984. *See Cox Ariz. Publ'ns*, 175 Ariz. at 14; *Ellis*, 215 Ariz. at 273–74 ¶¶ 22, 24–25; *Smith*, 254 Ariz. at 397, 399 ¶¶ 12, 19.

Cox evaluated the withholding of certain police records regarding the investigation of a high-profile illegal drug and gambling ring. The court criticized

the records custodian for arguing in "global generalities of the *possible* harm that *might* result from the release of police records." 175 Ariz. at 14 (emphasis added). The custodian did not identify "*specific* portions of the records that would justify withholding them" but instead "advanced arguments based on *generalized* claims of broad state interest"—such as fears that disclosure could "jeopardize fair trials … hamper ongoing investigations and prosecutions, burden prosecutors to an unreasonable extent, inhibit future witnesses from speaking with police," etc. *Id.* at 13 (emphasis added).

The *Cox* court said that because the types of records requested were "not generally exempt from our public records law, it was incumbent upon [the custodian] to *specifically* demonstrate how production of the documents" would fall within one of the recognized exceptions. *Id.* at 14 (emphasis added). The court rejected the idea that mere potential for harm to police investigating practices could create a "sweeping exemption" from disclosure, because such a "blanket rule" would "contravene[] the strong policy favoring open disclosure and access, as articulated in Arizona statutes and case law. *The legislature has not carved out such a broad exemption, nor do we.*" *Id.* (emphasis added); *see also Smith*, 254 Ariz. at 398 ¶ 17 (whether "potential increased risks merit a substantive change in the law is for the legislature, not this court, to determine"); *Bolm*, 193 Ariz. at 40

¶ 13 ("If the City believes that certain … records should not be open to public inspection, a remedy must be sought with the legislature.").

In *Ellis*, too, the Supreme Court reversed a trial court order denying access to a public record without first requiring the party opposing disclosure to demonstrate probable, specific, material harm. 215 Ariz. at 274 ¶ 25. That case involved the alleged assault of a fourteen-year-old student by the school janitor. *Id.* at 269 ¶ 2. The student was then placed under a conservatorship, and the conservator filed a Notice of Claim on her behalf with the school district. *Id.* at 270 ¶¶ 3–4. The Notice was subsequently requested by the news media. *Id.* ¶ 5. The court found that because the student's name was redacted from the Notice, there was no specific harm to the student. *Id.* at 273–74 ¶ 23. Rather, the "only assertion of a privacy interest before the trial court was a general interest in protecting the privacy interests of a minor crime victim." *Id.* at 274 ¶ 24.

Citing *Cox*, the court reiterated that "using a 'blanket rule' exempting entire categories of documents from disclosure" was inappropriate, and it directed the trial court to "conduct an *in camera* review … and determine what parts of the Notice, if any, should be redacted" using the balancing test. *Id.* at 274 ¶¶ 25–26; *see also* *Schoenweis v. Hamner*, 223 Ariz. 169, 175 ¶¶ 22–23 (App. 2009) (directing trial court to conduct *in camera* inspection of records relating to potential homicide).

Finally, in *Smith*, Division Two reiterated that, "*Carlson* requires more than reliance on generalities." 254 Ariz. at 399 ¶ 19. In that case, the requester had been shot during an altercation with another unidentified individual. *Id.* at 395 ¶ 2. After declining to file charges, the Town of Marana tried to block the release of unredacted police records relating to the identity of the shooter. *Id.* at 395–96 ¶¶ 2–3. The court found that the Town's abstract claims that "stigma" might "attach to being involved in potentially criminal but uncharged conduct" was "too abstract to overcome the presumption of disclosure that accompanies" the PRL. *Id.* at 399 ¶ 19. Critically, the court held that "**in its *speculation* as to the *generalized potential* harms that *might* befall a *private*[15] citizen whose public actions are disclosed through a public records request, the Town fails to identify any 'specific, material harm' that 'will result from disclosure.'**" *Id.* (emphasis added, citation omitted).

In this case, the trial court accepted the City's "global generalities of the *possible* harm that *might* result from the release" of the records at issue. *Cox*, 175 Ariz. at 14 (emphasis added); *see also Smith*, 254 Ariz. at 399 ¶ 19. The court also

[15] Public-sector unions like PLEA, AFSCME, and PFFA are private organizations, APP.158–59 at 142:15–143:3, APP.175–77 at 159:6–161:10, APP.187–90 at 171:19–174:18, although their membership consists of public employees. In fact, in labor negotiations they negotiate against the taxpaying public for wages, benefits, and terms and conditions of employment. *Id.*; *see also* APP.074 at 58:16–19, 100:17–101:18, 102:18–25.

created a "sweeping exemption" for labor negotiation records that does not appear in statute, and a "blanket rule" that such records be withheld through at least one subsequent negotiation cycle.[16] *Cox*, 175 Ariz. at 14; *see* APP.015.

Nor did the court below did conduct an *in camera* inspection or a case-by-case analysis of the specific records in this case. APP.217 at 201:6–10 (trial judge acknowledging that *in camera* review was not presented "[a]nd so I can't look to see, in this particular instance, if there is a specific issue for potential harm or probability, I guess, of harm, if the documents were to be released"). *See, e.g.*, *Cox*, 175 Ariz. at 13; *Bolm*, 193 Ariz. at 40 ¶¶ 13–14 (declining to "fashion a blanket rule … because the balancing test must be applied on a case-by-case basis 'to determine whether a particular record should be released'" (citation omitted) and agreeing that "a trial court generally should conduct an *in camera* inspection"). As in *Cox*, the government here did not seek either protection. APP.217 at 201:6–10. *Compare Cox*, 175 Ariz. at 15, *with Bolm*, 193 Ariz. at 41 ¶¶ 15, 17 (contrasting *Cox* because city partially disclosed and then "submitted the remaining records to the trial court for *in camera* review").

[16] *Mitchell* cuts against the trial court's conclusion that if withholding records during negotiations is proper, then records should continue to be withheld "until the next MOU is finalized."APP.015. In *Mitchell*, the Supreme Court held a Superior Court order regarding the confidentiality of presentence reports "void to the extent that it enacts a general rule keeping all presentence reports confidential even after sentencing." 142 Ariz. at 335.

Instead, the lower court accepted the City's abstract claims of confidentiality and unsubstantiated fears of "politicizing labor negotiations, collusive activities among bargaining units, public posturing by negotiators, and hindering the free exchange of ideas or proposals without undue influence of constituents." APP.012. Many of these concerns had to do with the *private* interests of the unions, not the public interest of the City and its taxpaying residents. APP.158 at 142:15–43:3, APP.175 at 159:6–19, APP.188 at 172:7–15. Such "speculation as to … generalized potential harms" does not establish "any 'specific, material harm' that 'will result from disclosure.'" *Smith*, 254 Ariz. 399 ¶ 19 (emphasis added).

B. To overcome the presumption in favor of public records disclosure, speculative concerns must rise to the level of a probability that disclosure will cause specific, material harm.

Paying only lip service to *Mitchell*, APP.011, the trial court agreed with the City that under *Arizona Board of Regents v. Phoenix Newspapers, Inc.*, 167 Ariz. 254, 25 (1991), and *Scottsdale Unified* , 191 Ariz. 297, "speculative concerns may be sufficient to support the public interests [sic] exception." APP.015.

But even assuming that's true, such concerns, to "be sufficient," must also comport with *Mitchell* and establish a probability of specific, material harm resulting from disclosure. 142 Ariz. at 335. Otherwise, mere speculation—even irrational speculation—could be used by the government to shield documents from the public, and the "best interests of the state" exception would consume the PRL.

In other words, *Mitchell* and its progeny provide a critical limiting principle to the "best interests of the state" exception.

Board of Regents and *Scottsdale Unified* are not to the contrary.

In *Board of Regents*, the Supreme Court overruled a Superior Court decision that *prospective* candidates (not actual candidates) for university president must be revealed to the media. 167 Ariz. at 258. It is true that the Court cited potential concerns, including that disclosure "could chill the attraction of the best possible candidates for the position." *Id.* But it was not pure speculation or a mere "reasonable prediction," IR.21 at 10; APP.226 at 210:3–13, APP.231 at 215:1–3, because it was based on concrete prior examples, where "[i]n some cases the publicity attendant to the search has proven detrimental to the search process, resulting in lesser qualified, but thicker skinned, persons applying." *Bd. of Regents*, 167 Ariz. at 258; *see also Cox*, 175 Ariz. at 14 (citing *Board of Regents*) (noting that the "Board of Regents *demonstrated specific instances* where publicity proved detrimental" (emphasis added)). While not certain to recur, the fact that the public entity could point to *specific* past examples of material harm caused by disclosure meant that "[t]he evidence show[ed] that the Board could reasonably have concluded that the welfare of the university required that the list of names be held in confidence." *Bd. of Regents*, 167 Ariz. at 259.

Here, by contrast, the City did not show, and the trial court did not find, *any* specific examples of the asserted harms stemming from disclosure of similar records.

Scottsdale Unified involved a dispute over the disclosure of teacher birthdates, which were available from public sources outside of the requested records. 191 Ariz. at 299 ¶ 1. The Court, assessing teachers' privacy interests under the privacy exception to disclosure, acknowledged that "[w]ith both a name and birth date, one *can* obtain information about an individual's criminal record" and other private information. *Id.* at 302 ¶ 18. In other words, the invasion to an individual's privacy interests is specific and concrete, not speculative and remote. Here, there is *no evidence* of harm to anyone's privacy, breach of statutory confidentiality, or damage to the City's legitimate interests. *See also Hodai*, 239 Ariz. at 37, 41–42 ¶¶ 1, 20–22 (allowing limited production where "disclosure of some redacted records does not harm the government or its people" and applying "specific, material harm" standard to allowed redactions (citing *Cox* and *Ellis*)).

Similar standards are used in other states. For example, in Pennsylvania, to successfully prove either its "personal security" exemption, 65 P.S. § 67.708(b)(1)(ii), or "public safety" exemption, 65 P.S. § 67.708(b)(2), mere "conjecture" or "speculation" are insufficient to prevent disclosure. *Carey v. Pa. Dep't of Corr.*, 61 A.3d 367, 373, 376 (Pa. Cmwlth. 2013). For the "personal

security" exception, "an agency must show: (1) a 'reasonable likelihood' of (2) 'substantial and demonstrable risk' to an individual's security if the information sought is not protected." *Id.* at 373 (citation omitted). "[S]ubstantial and demonstrable" means "actual or real and apparent." *Id.* And for the "public safety" exemption, Pennsylvania courts interpret the statutory phrase "reasonably likely" to mean "more likely than not" that disclosure will "'jeopardize or threaten public safety or preparedness or public protection activity or a record that is designated classified.'" *Id.* at 374–75 (citation omitted).

Similarly, Washington's Public Records Act has a codified exemption allowing "[t]he examination of any specific public record [to] be enjoined if … such examination would clearly not be in the public interest *and* would *substantially and irreparably* damage any person, or … vital government functions." RCW § 42.56.540 (emphasis added); *see also Soter v. Cowles Publ'g Co.*, 174 P.3d 60, 82 (Wash. 2007) (clarifying conjunctive nature of test). In *Brouillet v. Cowles Publ'g Co.*, 791 P.2d 526, 532–33 (Wash. 1990), the Washington Supreme Court found that legislation creating closed (i.e., confidential) hearings for certificate revocations "does not specifically exempt anything from disclosure" under the Washington Public Records Act because "[t]he language of the statute does not authorize us to imply exemptions but only allows specific exemptions to stand." *See also Lyft, Inc. v. City of Seattle*, 418 P.3d

102, 107 (Wash. 2018) (trade secrets not exempt under the Act and are subject to the substantial and irreparable damage standard). Likewise, even if oral negotiations during the "meet and confer" process are not open to the public—a question not presented in this case—that does not mean that records exchanged during the "meet and confer" process are exempt from disclosure under the Public Records Law.

C. The harm alleged by the City and accepted by the trial court are abstract generalities, not specific, material harms.

The City asserted a variety of vague, speculative harms that might result from disclosure of the requested records. *See, e.g.*, IR.21 at 8. *See* *Hodai*, 239 Ariz. at 42 ¶ 21 ("vague assertions of possible harm insufficient to overcome legal presumption favoring disclosure" (citing *Cox*, 175 Ariz. at 14)). In the court below, Appellees focused on five such "harms": labor collusion, impasse, increased politicization of the negotiation process, undue public pressure or pressure from elected officials, and labor unrest.[17] *See, e.g.,* APP.267–73; APP.012. The trial

[17] Although a topic of discussion throughout the hearing, *see* APP.077–78 at 61:6–62:6, APP.111 at 95:4–22, APP.127 at 111:13–15, APP.128 at 112:18–22, APP.146 at 130:10–21, APP.151 at 135:17–21, APP.167–68 at 151:11–152:9, APP.178–79 at 162:18–163:11, APP.182–85 at 166:12–169:3, APP.211–12 at 195:3–196:4, the trial court did not appear to give any weight to the City's claims regarding labor unrest in its analysis. The only mention of it in the ruling are to note Mr. Brown's and the City's witnesses' competing understandings of the term, which suggests that "labor unrest" is precisely the type of generalized, abstract harm that cannot result in nondisclosure.

court appears to have accepted three: "undue pressure, impasse, and collusion." APP.015.

But each of these stated harms is generalized and abstract, not specific and material.

For example, what type of pressure is "undue"? The City offered no concrete answer, *see* APP.127 at 111:10–12, other than to say that "*any*" pressure is "undesirable." APP.140 at 124:3–20. But there is no way to eliminate *all* pressure from a labor negotiation. And the types of pressure the City seems most concerned about are exactly the types of pressure that result from living in a free and democratic society—indeed, those that are expressly contemplated by the PRL. *See, e.g.*, *Keegan*, 201 Ariz. at 351 ¶ 33. For the City (and the trial court) to say that taxpaying "*constituents*" could exert "undue influence" on a process they are funding is both undemocratic and condescending. *See, e.g*, APP.012 (emphasis added). It is also generalized, abstract, and subjective.

"Collusion" among labor unions is likewise an insufficient justification for denying public records. The City asserts that "when you have simultaneous bargaining, it's also *possible* five units could work together." APP.065 at 49:21–22 (emphasis added). But "working together" can mean many types of collaboration, from moral support at one extreme to actively altering each other's negotiating positions at the other. In fact, two of the unions are part of the same national union,

AFSCME, and most of the unions are affiliated with the AFL-CIO. APP.268–69. They certainly "collude" in the sense that they share information. *Id.* In other words, there is nothing that *currently* prevents unions from "colluding" with—that is speaking to—to one another. Nor should there be, as a First Amendment matter. Public records cannot be withheld based on an assertion of harm that is already happening and should lawfully happen anyway.

The possibility of more frequent impasses based on the public disclosure of these records is also purely speculative, and contradicted by the evidence. The City itself has not indicated how frequently impasse occurs now for each bargaining unit, or what it costs when it does. APP.102–4 at 86:14–88:6, APP.107–8 at 91:21–92:14, APP.110 at 94:11–16, APP.126–27 at 110:25–111:3. Indeed, bargaining units can unilaterally declare an impasse even if that does not actually lead to formal impasse/factfinding procedures. APP.120–21 at 104:20–105:15, APP.138 at 122:4–12, APP.161–62 at 145:8–146:6, APP.177–78 at 161:21–162:13, APP.195–97 at 179:21–181:3, APP.205–6 at 189:11–190:1.

The City claimed that union negotiation strategies could make impasse more likely. APP.281 ¶ 9, *see also* APP.283 ¶ 13. But when pressed, the City's representative admitted he had no personal knowledge of such strategies, and he didn't connect them to any potential increase in impasses. APP.140–41 at 124:21–125:4. Moreover, another of the City's witnesses admitted that a prior impasse was

not caused by any public disclosure of documents, APP.177–78 at 161:21–162:13, and Mr. Shoplock testified that impasse has been uncommon in Idaho both before and after implementing transparent negotiations. APP.075 at 59:1–9. *See also* APP.104 at 88:13–20 (no evidence of increased impasse in Florida or Texas either). Importantly, Mr. Willingham indicated that the PFFA *always* reaches impasse. APP.195–97 at 179:17–181:3; *see also* APP.161 at 145:8–24 (AFSCME Local 2960 also frequently declares impasse).

It is impossible for there to be anything more frequent than always.

Importantly, the City connected *none* of these alleged, speculative harms with specific individual records. No specific monetary cost has been identified. No specific person or entity has been named as the recipient of the harm. In fact, some of the alleged harm was admitted at trial to potentially *benefit* the City and/or the unions. *See* APP.140 at 124:16–19 (City would "certainly welcome" public comment); APP.198 at 182:8–17 (PFFA "always welcome[s] the community's support, our citizens' support" during "all aspects of negotiation").

D. Harms that occur in the *absence* of disclosure and are unlikely to increase do not *result from* disclosure.

The *Mitchell* standard says public records may be withheld only if the specific, material harm *results from* disclosure. That means disclosure must be the *cause* of the harm. If harm occurs in the absence of disclosure, or is unlikely to increase after disclosure, by definition the harm is not the consequence of releasing

the records. *See* "result (verb)," Merriam-Webster ("to proceed or arise as a consequence, effect, or conclusion").

The City has contended that collusion between bargaining units is a potential harm of disclosure. However, the evidence at trial proved that bargaining units are already speaking with one another about their bargaining proposals. APP.268–69; APP.099 at 83:4–19, APP.162–63 at 146:7–147:3, APP.169–70 at 153:22–154:15. As the trial judge herself said, "It sounds like they're already [colluding]." APP.226 at 210:20–21.

At trial, an organization known as COPCU[18] was discussed. That group apparently consists of the heads of all[19] of the bargaining units in Phoenix, APP.162–63 at 146:7–147:3. They "get together" throughout the year, including during the negotiation process, to discuss "basic strategies going forward, and … what we want, and some of the issues we face." APP.162 at 146:7–18. These discussions, while characterized by the City as "general," can be as specific as wanting "to increase the amount of bulletproof vests." APP.170 at 154:4–15. In other words, **specific bargaining proposals are discussed between the bargaining units *now*.** Disclosure of the written documents would not and *can*not

[18] Appellant believes this acronym stands for "Coalition of Phoenix City Unions," but no clear definition surfaced during the hearing. *See, e.g.,* APP.162 at 146:13–14 ("Coalition of Units [sic]").

[19] There appears to be conflicting evidence on whether all or some of the units are members or participate. *See* APP.199 at 183:14–21.

result in discussions that are already occurring. In fact, public disclosure of the written documents might expose such practices and could lead to a decrease in collusion, rather than an increase.

Similarly, labor negotiations are inherently politicized.[20] APP.127–31 at 111:16–112:17, 113:5–9, 114:18–115:17, APP.163–67 at 147:4–151:10. *See also infra* n.23. No evidence was presented that negotiations would somehow become more "political."[21] APP.109 at 93:2–23, APP.127–28 at 111:7–112:17, APP.200 at 184:9–11.

E. The City pointed to *no* examples where disclosure caused the stated harms, and Appellant provided a concrete example of another state where disclosure did *not* result in such harms.

Tellingly, the City provided no evidence that disclosure actually *causes* the harms it asserts, whether in Arizona or elsewhere. APP.126–27 at 110:8–111:15, APP.142–43 at 126:5–127:22, APP.145–46 at 129:7–130:21, APP.149 at 133:4–15, APP.179 at 163:2–11, APP.184–85 at 168:18–169:3, APP.198–200 at 182:21–

[20] "Politics" is also ambiguous. *See* "politics," Merriam-Webster ("the art or science of government … political actions, practices, or policies … competition between competing interest groups or individuals for power and leadership … political life especially as a principal activity or profession … the total complex of relations between people living in society … [etc.]"). When the City argues that disclosure would further politicize the negotiation process, it is unclear exactly what they mean. Do they merely mean government-related? Partisan? Power dynamics?

[21] Depending on the definition of "labor unrest," some subjective level of "labor unrest" occurs now.

184:12; *see also* APP.240–41 at 224:12–225:5. Appellants, on the other hand, *did* offer evidence from another jurisdiction—Idaho—where all labor negotiations are open to the public. And the record shows that *none* of the stated harms the City claims would occur if records of negotiations are disclosed have occurred in Idaho, where such records are disclosed—indeed, where the entirety of such negotiations (the negotiations themselves and not just records of them) are open to the public. APP.252–55; APP.075–78 at 59:5–62:6. *See also* APP.273; APP.104 at 88:13–20, APP.121–22 at 105:20–106:9, APP.126 at 110:8–24.

The fact that the City could not produce evidence in a single jurisdiction in which disclosure of negotiation records caused specific, material harm demonstrates that it failed to meet its burden under the *Mitchell* standard.

II. The trial court erred in concluding that the "best interests of the state weigh against the disclosure" of documents exchanged during "meet and confer" negotiations between the City and PLEA.

In addition to misapplying *Mitchell*, the court below also misapplied the *Carlson* balancing test and reached the improper conclusion that the "best interests of the City" overcame the presumption of disclosure in the PRL.

A. Public records are presumed open to public inspection.

The PRL "evince[s] a clear policy favoring disclosure." *Carlson*, 141 Ariz. at 490.

Because the City admits that the approximately 54 documents at issue here are public records within the scope of the PRL, IR.57 at ¶¶ 11, 42, "the presumption favoring disclosure applies." *Griffis v. Pinal Cnty.*, 215 Ariz. 1, 5 ¶ 13 (2007); *see also* *Cox*, 175 Ariz. at 14 (holding that the "burden fell squarely upon [the] public official, to overcome the legal presumption favoring disclosure.").

Consequently, records of MOU proposals and draft MOUs between the City and PLEA are public records that both are "required to be kept … [and] are presumed open to the public." *Carlson*, 141 Ariz. at 491. Unless a specific exception applies, the public is entitled to open access to the documents at issue in this matter, and the City must promptly disclose them. *See* *id.* at 490; *W. Valley View, Inc. v. Maricopa Cnty. Sheriff's Off.*, 216 Ariz. 225, 230, ¶ 21 & n.8 (App. 2007) (public records "available for immediate production" must be disclosed "at once").

The practical effect of the presumption is that in the event of a proverbial tie between the government's interests and the public's interests in disclosure, the tie goes to the requester.

B. The public has a strong interest in records exchanged during "meet and confer" negotiations.

Publicly funded activities are "not meant to be clothed in secrecy, but to be subject to open discussion and debate." *Moorehead v. Arnold*, 130 Ariz. 503, 505 (App. 1981). "The core purpose of the public records law is to allow the public

access to official records and other government information so that the public may monitor the performance of government officials and their employees." *Keegan*, 201 Ariz. at 351 ¶ 33 (citation omitted). *See also Lake v. City of Phoenix*, 222 Ariz. 547, 549 ¶ 7 (2009) ("Arizona's public records law serves to 'open *government* activity to public scrutiny.'" (quoting *Griffis*, 215 Ariz. at 4 ¶ 11)).

Union MOUs, their drafts, and MOU proposals are created to determine how to conduct the city's business and how to spend taxpayer money. They provide information about crucial official activities and key public functions funded by City taxpayers.

When the City negotiates an MOU with PLEA, City personnel conducting the negotiations on behalf of the City are paid government salaries funded by taxpayers. As public officials acting in a fiduciary capacity, the City's negotiators act on behalf of Phoenix residents. PLEA representatives are also paid government salaries funded by taxpayers.

In addition to funding both sides of the negotiations, the public also has a significant interest in how police services are provided and funded within the City.[22] The public's tax burden is directly affected by all city expenditures, particularly when they concern core public functions such as law enforcement that

[22] Indeed, such matters garner significant public and media interest. *See, e.g.*, Miguel Torres, *Phoenix Public Denied Advance Look at Police Union Contract Proposals*, azcentral.com (Dec. 15, 2022).

consume significant portions of public resources. City residents also are the direct recipients of law enforcement services and therefore have a great interest in holding the City and its law enforcement agents accountable regarding those services. The compensation, benefits, terms and conditions of employment, disciplinary procedures, among many other public functions that are outlined in MOU proposals are all matters of crucial and continuing public concern. *See* *Smith*, 254 Ariz. at 399 ¶ 18 ("automatic redaction [or withholding] can potentially create a 'black box' of information that might render government activity impervious to public scrutiny").

Additionally, public engagement regarding MOU negotiations has affected prior rounds of negotiations. *See* APP.244–45 ¶¶ 9–12. Without access to information regarding MOU proposals, citizens cannot meaningfully petition their government for redress on matters of significant public concern. In order to "monitor the performance of government officials and their employees," *Keegan*, 201 Ariz. at 351 ¶ 33 (citation omitted), City residents must be able to find out what PLEA asked for, how their public officials responded, and what documents were exchanged. *See* APP.245–46 ¶¶ 13, 17–18. Withholding such records makes it difficult for the public to perform its civic duties, from providing comment on

the proposals to scrutinizing each party's behavior during the negotiations to voting.[23]

In other words, it undermines the central purpose of freedom of information laws, which are intended to inform citizens so that they can hold their elected leaders accountable. *See* *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 242 (1978) ("The basic purpose of FOIA is to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed.")

Ms. Garcia explained at the hearing that access to the negotiation documents throughout the process would allow for a better-informed public, more specific and informed advocacy,[24] and, potentially, a greater influence by the public on the outcome. *See, e.g.*, APP.013.

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[23] The City held a runoff election for two City Council positions on March 14, 2023. IR.57 ¶ 47. By withholding the records, the City deprived voters of an opportunity to decide whether they were relevant to the then-ongoing election. However, union bosses—who were actively campaigning and engaging in political activities during the runoff, APP.163–67 at 147:4–151:10; APP.278—had that opportunity.

[24] Contrary to the court's statement below that "draft—non-final—MOUs and negotiating documents at issue do not reflect City policy," (APP.013) Ms. Garcia explained that "by the time negotiations end, the contract is pretty much closed," (APP.042 at 26:20–21) meaning that City policy has already been integrated through the non-final documents into the final contract. And even counsel for the City implied that certain offers may reflect City policy. *See, e.g.*, APP.114 at 98:10–12 ("Like, for example, if the economy is bad, an employer may want to make an extremely stingy offer to show the public they're fighting to save taxpayer money … .").

By withholding the public records at issue in this case, the City has deprived the public of valuable information about decisions its government makes on the most important and costly public safety functions the City provides.

C. The City's interests in preventing disclosure are weak.

Long before this particular dispute arose, the City articulated, through its meet and confer ordinance, that **the best interests of the city require public access to draft MOUs and City responses before the commencement of meet and confer negotiations.** Phoenix City Code § 2-218. Not only did the City violate and disregard its own ordinances and processes for public dissemination of information during the meet and confer process, but it also failed to weigh this expressly codified interest in the context of the records dispute here. Any interests belatedly asserted by unelected City officials are outweighed by the policy of transparency adopted and codified by the people's elected representatives on the City Council.

The *post hoc* reasons the City offered to justify withholding the public records at issue are unavailing. The trial court found three of the City's stated interests outweigh the public's right to the information sought: "undue [political] pressure, impasse, and collusion." APP.015. None do.

First, as set out above, there is no evidence that *any* of these speculative, potential harms will ever be realized. *Second*, "political pressure," the possibility

for impasse, and the fact that unions representatives are free to speak with one another are all simple facts of labor relations. Indeed, "political pressure" is itself a feature, not a bug, of government transparency. It is another way—although perhaps a pejorative one—to describe an informed citizenry holding its government accountable. The disclosure of the records requested will not change these realities of labor relations, and there was no evidence presented that providing these records will result in the *increased* probability of any of these purported harms.

Third, if the City *did* have a strong enough interest to withhold *certain* information from the requested records, it could have done so through redactions. *Carlson*, 141 Ariz. at 491 ("a practical alternative to the complete denial of access would be deleting specific … information."); *Hodai*, 239 Ariz. at 40 ¶ 15 (noting trial court's ruling "did not address the possibility of redacting documents to protect the interest of the state"). But the City did not provide this "practical alternative."

Finally, if the City wanted to meet its burden of demonstrating—for each individual record, *see Bolm*, 193 Ariz. at 40 ¶ 13—a "probability that specific, material harm will result from disclosure," *Mitchell*, 142 Ariz. at 335, whether of the complete records or redacted versions, it could have requested an *in camera*

inspection of the records for that purpose. *Carlson*, 141 Ariz. at 491; *Hodai*, 239 Ariz. at 38, 40 ¶¶ 3–5, 14–15. It did not.

That the City chose not to pursue these alternatives further demonstrates that it failed to carry its burden of proving that the best interests of the state outweigh the public's right to the important public information at issue. *Cox*, 175 Ariz. at 14–15. *See also* APP.216 at 200:12–17 (making this argument during closing); APP.217 at 201:6–10 (trial judge acknowledging that *in camera* review was not presented "[a]nd so I can't look to see, in this particular instance, if there is a specific issue for potential harm or probability, I guess, of harm, if the documents were to be released"); APP.239–40 at 223:8–224:13 (further discussion).

D. On balance, the best interests of the City do not overcome the presumption in favor of disclosure.

Even if the City's articulated concerns could credibly demonstrate a *possibility* of specific, material harm to the "best interests of the City" as a result of disclosure, such speculative harms are greatly outweighed by the public's interest in, and right to know about, the operations of City government in this crucial area of labor relations and the provision of law enforcement services to the City's citizens.

A proper application of the *Carlson* balancing test points to full disclosure of the requested records. The City failed to establish a probability that specific, material harm will result from disclosure. It offered no expert testimony, and it

offered only one lay witness that actually represents the City's interests. APP.279 ¶ 2. *See also* APP.159–60 at 142:15–143:3, APP.175–77 at 159:6–19, 160:7–161:10, APP.188–90 at 172:7–174:9. That witness, Mr. Perkiser, had only one bargaining cycle of experience with the City of Phoenix. APP.279 at ¶ 2; APP.136 at 120:10–15. None of the City's witnesses had any experience with negotiations where records were categorically open to public disclosure. APP.136–37 at 120:19–121:5, APP.141–42 at 125:21–126:4, APP.149–51 at 133:4–135:16, APP.159 at 143:19–22, APP.177 at 161:11–20, APP.191 at 175:12–23, APP.197–99 at 181:15–182:3, 182:21–183:6. And **the City provided no examples of records disclosure causing any of the general, speculative harms asserted.**[25] APP.126–27 at 110:8–111:15, APP.142–43 at 126:5–127:22, APP.145–46 at 129:7–130:21, APP.149 at 133:4–15, APP.179 at 163:2–11, APP.184–85 at 168:18–169:3, APP.198–200 at 182:21–184:12; *see also* APP.240–41 at 224:12–225:5.

In contrast, Appellant offered "persuasive" and "probative" expert witness testimony regarding the inherently political nature of labor negotiations, undercutting the City's asserted confidentiality interest, and explaining why the harms named by the City are unlikely to occur or increase. *See, e.g.*, APP.014–15. Ms. Garcia eloquently articulated the strong public interest in disclosure of the

[25] The lone out-of-state example of "grandstand[ing]" cited by the City was caused not by disclosure of records, but by union member attendance at the negotiations, which is not at issue here. *See* APP.149–51 at 133:21–135:16.

documents. *See, e.g.,* APP.013. And Appellant established that other states—Idaho in particular—that have implemented disclosure of labor negotiation records as the rule have not experienced the harms speculated by the City. *See, e.g.,* APP.013–14.[26]

In short, the record shows that ***no*** specific, material harm will occur if the City provides its citizens records about how it is negotiating on their behalf. On the contrary, by withholding these records, the City is preventing civic engagement on critical matters of public concern that are time sensitive. The trial court erred in weighting the scales in favor of secrecy and against transparency under the

[26] The trial court improperly discounted Mr. Shoplock's testimony on the grounds that "he is not directly involved in labor negotiations," "never personally negotiated labor agreements," and "has no experience with the City of Phoenix labor negotiations." APP.014. But the first two justifications are simply not true, and are inconsistent with the court's own ruling, which acknowledged that "[h]e has experience negotiating under the law before and after the open process." *Id.* at 11; *see also* APP.074 at 58:1–8 (describing negotiation experience before and after change in the law). To the extent that his testimony was found as a factual matter to be not "persuasive or particularly probative" on those grounds, the Superior Court clearly erred. APP.014. And Shoplock's lack of experience in Phoenix specifically is no surprise, as that was not the basis of his testimony. It is also opposite the problem facing each one of the City's witnesses, who have no experience with negotiations where written documents are open to the public. Mr. Shoplock is the *only* witness with firsthand negotiating experience under both an open and a closed system, and his testimony is both highly relevant and persuasive for that reason. The size of the bargaining units matters little, as the nature of labor negotiations does not vary much. APP.074 at 58:9–19; *see also* APP.116–18 at 100:17–102:25. Mr. Shoplock's testimony should be given significantly more weight under the *Carlson* balancing test than afforded by the trial court.

Carlson balancing test, and for that reason, the decision below should also be reversed.

CONCLUSION

The decision below should be *reversed* and the City ordered to produce the requested records.

NOTICE UNDER RULE 21(A)

Appellant requests attorney fees and costs pursuant to A.R.S. §§ 12-341, 12-348, 12-2030, and 39-121.02; Rule 4(g), Ariz. R. P. for Spec. Actions; and the private attorney general doctrine.

Respectfully submitted this 12th day of June, 2024.

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