

Editor's note: This article was published in The Herald of Everett on June 16, 2010. It was slightly edited for this website.

Insiders, outsiders vie over access

By George Erb

One of our perpetual civic debates in Washington State is powered by the friction between insiders and outsiders over access to the machinery of state and local government.

Insiders are typically elected or appointed officials and their employees, and they include groups that have deep relationships with the government. Most of them work hard, try to do the right thing and are often annoyed when outsiders start prying into their internal affairs.

Outsiders are more diverse, but they frequently consist of citizen activists, the press and various groups with performance and reform agendas. Most of them work hard, try to do the right thing and are often annoyed when insiders try to block access to an agency's inner workings.

Insiders want to study proprietary information and deliberate freely, without outsiders gumming up the works. Outsiders want to see the information and the deliberations so they can tell whether their officials are acting wisely.

It can get complicated. Outsiders often have allies on the inside and vice versa. The Public Disclosure Act, adopted by Washington voters in 1972, tilted the playing field in favor of outsiders. The act's oft-quoted preamble says, in part, "The people of this state do not yield their sovereignty to the agencies which serve them." That's red meat for outsiders.

But in the 38 years since the act's passage, insiders have nibbled away at its provisions. Since 1972, the Legislature has passed hundreds of exemptions to the state's open-records laws. The state Supreme Court also handed down rulings that favored insiders.

Let's stop talking in the abstract and see what the conflict looks like in real life.

In one case, former Snohomish County Planning Director Craig Ladiser was fired last year after allegedly pressing his genitals against a female lobbyist on a golf outing with the Master Builders Association of King and Snohomish Counties.

The incident became public when the woman filed a complaint with Snohomish County. Ladiser has pleaded innocent to charges of indecent exposure and fourth-degree assault in King County Superior Court.

Recently, The Herald of Everett learned through public-records requests that county officials knew about efforts by the Master Builders Association to resolve the incident quietly. This is classic insider behavior.

The Herald's story, of course, was classic outsider behavior. Score one for the outsiders. In the second case, the U.S. Office of Thrift Supervision and the Federal Deposit Insurance Corp. in 2008 seized Washington Mutual and sold it to JP Morgan Chase at a deep discount. The consequences were calamitous. Thousands of WaMu employees lost their jobs, and thousands more investors lost billions of dollars.

But was the intervention really necessary? An investigation by the Puget Sound Business Journal discovered that WaMu's liquidity and capital in its final days exceeded regulatory thresholds.

When the Business Journal tried to get to the bottom of the federal intervention, it got nowhere. The FDIC released hundreds of documents, but only after the agency blacked out almost every word on every page. Score one for the insiders.

The outsiders, however, are on to something. America is a grand experiment in self government based on laws. It's a notion that's idealistic and hopeful and at odds with much of human history. In other words, it's typically American.

Yet the concept doesn't work well in practice if a key ingredient is missing: informed citizens. They need to know what their government is doing so they can tell whether it is acting in their best interests.

Thanks largely to outsiders, Snohomish County voters are more able to judge for themselves whether the county handled the Ladiser matter wisely. Meanwhile, Washington residents are still in the dark about why, exactly, federal regulators took down WaMu. We can thank insiders for that.

George Erb is a board member for the Washington Coalition for Open Government. He lives in Seattle.