

# **Bond Case Briefs**

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## **PUBLIC RECORDS - OREGON**

### **City of Portland v. Bartlett**

**Supreme Court of Oregon - April 28, 2022 - P.3d - 369 Or. 606 - 2022 WL 1260316**

City sought declaratory judgment that public records sought by requester, and ordered produced by district attorney, were exempt from disclosure as attorney-client privileged material.

Requester filed counterclaim seeking declaratory judgment that records must be disclosed. The Circuit Court granted city's motion for summary judgment and denied requester's motion for summary judgment. Requester appealed. The Court of Appeals reversed and remanded. City obtained leave to appeal.

The Supreme Court held that:

- Communications between city attorney and city officials that were over 25 years old were not exempt from disclosure under public records law on ground that they were subject to attorney-client privilege, and
- Public records law prevailed over any inconsistent city law.

Communications between city attorney and city officials that were over 25 years old were not exempt from disclosure under public records law on ground that they were subject to attorney-client privilege; although documents were exempt from disclosure at time they were prepared, 25-year sunset provision applied to all public records.

Application of public records law for disclosure of communications between city attorney and city officials that were over 25 years old did not interfere with "structure and procedures" of city's government, and therefore home rule under Oregon Constitution, but instead was application of general law addressed primarily to substantive social, economic, or other regulatory objectives of the state, and therefore public records law prevailed over any inconsistent city law; even legislature's disclosure requirement and that provision's related effect on evidentiary privilege, as applied to city's attorney-client communications, were somehow inconsistent with provisions of city code that made reference to that privilege, city would have to comply.