

RECEIVED
SUPREME COURT
STATE OF WASHINGTON
Mar 25, 2016, 4:53 pm
BY RONALD R. CARPENTER
CLERK

No. 92161-0

RECEIVED BY E-MAIL

IN THE SUPREME COURT OF
THE STATE OF WASHINGTON

MIKE BELENSKI,

Petitioner,

v.

JEFFERSON COUNTY,

Respondent,

FILED *E*
APR 11 2016
WASHINGTON STATE
SUPREME COURT *byh*

MEMORANDUM OF AMICUS CURIAE, WASHINGTON
STATE ASSOCIATION OF MUNICIPAL ATTORNEYS
IN SUPPORT OF JEFFERSON COUNTY

Attorney for Washington State Association of Municipal Attorneys

Daniel B. Heid, WSBA #8217
Auburn City Attorney
City of Auburn
25 W. Main Street
Auburn, WA St. 98001-4998
(253) 931-3030
dheid@auburnwa.gov

 ORIGINAL

FILED AS
ATTACHMENT TO EMAIL

Table of Contents

| | |
|---|----|
| Table of Authorities | ii |
| I. IDENTITY AND INTEREST OF AMICUS..... | 1 |
| II. STATEMENT OF FACTS | 2 |
| III. LEGAL AUTHORITY AND ARGUMENT | 2 |
| A. This Court should resolve the division of authority on the application of the one-year statute of limitation to public records claims. | 3 |
| B. This Court should not apply the “catch-all” statute of limitation to Petitioner’s PRA claim. | 5 |
| 1. <i>Johnson v. State Dept. of Corrections</i> does not necessitate applying the two-year statute of limitation to public records claims. | 6 |
| 2. The plain language of the two-year statute of limitation precludes its application to public records claims. | 8 |
| C. This Court should not apply the discovery rule to Petitioner’s PRA claim. | 9 |
| 1. The Discovery Rule is not applicable to the PRA. | 9 |
| 2. Extending the discovery rule beyond tort claims is done by the Legislature. | 11 |
| IV. CONCLUSION..... | 12 |

Table of Authorities

Cases

| | |
|---|------------------------|
| <i>1000 Virginia Ltd. Partnership v. Vertecs Corp.</i> , 158 Wn. 2d 566, 146 P.3d 423 (2006)..... | 11 |
| <i>Architechtonics Const. Management, Inc. v. Khorram</i> , 111 Wn. App. 725, 45 P.3d 1142 (2002)..... | 11 |
| <i>Atchison v. Great Western Malting Co.</i> , 161 Wn. 2d 372, 166 P.3d 662 (2007)..... | 5 |
| <i>Bartz v. DOC</i> , 173 Wn. App. 522, 297 P.3d 737 (2013) | 1, 4, 5, 6, 10, 14, 15 |
| <i>Belenski v. Jefferson County</i> , 187 Wn. App. 724, 350 P.3d 689, (2015) | 6, 7 |
| <i>City of Port Townsend v. Etsenbeis</i> , 28 Wn. 533, 68 P. 1045 (1902)..... | 8, 9, 14 |
| <i>Clark Lloyd Lumber Co. v. Puget Sound & C. Rv. Co.</i> , 96 Wn. 601, 159 P. 774 (1916)..... | 9 |
| <i>Corey v. Pierce County</i> , 154 Wn. App. 752, 225 P.3d 367 (2010) | 9, 11 |
| <i>Gillam v. City of Centralia</i> , 14 Wn. 2d 523, 128 P.2d 661 (1942)..... | 9 |
| <i>Greenwood v. State Bd. For Community College Ed.</i> , 82 Wn. 2d 667, 513 P.2d 57 (1973)..... | 9 |
| <i>Harmony at Madrona Park Owners Ass'n v. Madison Harmony Development, Inc.</i> , 143 Wn. App. 345, 177 P.3d 755 (2008)..... | 11, 14 |
| <i>In re Recall of Pearsall-Stipek</i> , 141 Wn. 2d 756, 10 P.3d 1034 (2000) | 8, 13 |

| | |
|---|-------------|
| <i>Johnson v. State Dept. of Corrections</i> , 164 Wn. App. 769, 265 P.3d 216 (2011)..... | 6, 7, 14 |
| <i>Matter of Estates of Hibbard</i> , 118 Wn. 2d 737, 826 P.2d 690 (1992)..... | 11 |
| <i>Matter of Estates of Hibbard</i> , 60 Wn. App. 252, 803 P.2d 1312 (1991).... | 11 |
| <i>McDonald v. Wockner</i> , 44 Wn. 2d 261, 267 P.2d 97 (1954)..... | 9 |
| <i>Progressive Animal Welfare Soc. v. University of Washington</i> , 125 Wn. 2d 243, 884 P.2d 592 (1994)..... | 12 |
| <i>Rental Housing Ass'n of Puget Sound v. City of Des Moines</i> , 165 Wn. 2d 252, 199 P.3d 393 (2009)..... | 5, 12 |
| <i>Sagner v. Sagner</i> , 159 Wn. App. 741, 247 P.3d 444, review denied, 171 Wn.2d 1026, 257 P.3d 664 (2011)..... | 7 |
| <i>State ex rel. Cowlitz Mortg. Co. v. Millard</i> , 19 Wn. 2d 456, 143 P.2d 304 (1943)..... | 10 |
| <i>State v. Roggenkamp</i> , 153 Wn. 2d 614, 624, 106 P.3d 196, 201 (2005) | 9 |
| <i>Stuart v. Coldwell Banker Commercial Group, Inc.</i> , 109 Wn.2d 406, 745 P.2d 1284 (1987)..... | 11 |
| <i>Tobin v. Warden</i> , 156 Wn. App. 507, 233 P.3d 906 (2010) | 1, 4, 5, 14 |
| <i>U.S. Oil & Refining Co. v. State Dept. of Ecology</i> , 96 Wn. 2d 85, 633 P.2d 1329 (1981)..... | 12, 15 |
| <i>White v. Johns-Manville Corp.</i> , 103 Wn. 2d 344, 693 P.2d 687 (1985).... | 10 |

Statutes

| | |
|--------------------------|----|
| RCW 4.16.020 – 115 | 8 |
| RCW 4.16.080 | 13 |

| | |
|----------------------|------------------------|
| RCW 4.16.130 | 6, 7, 8, 9, 10, 13, 14 |
| RCW 4.16.340 | 13 |
| RCW 4.16.350 | 13 |
| RCW 19.108.060 | 13 |
| RCW 42.56 | 1 |
| RCW 42.56.130 | 7 |
| RCW 42.56.550 | 3, 4, 6, 7, 10, 13, 14 |
| RCW 62A.2-725 | 13 |

Court Rules

| | |
|---------------|---|
| RAP 13.4..... | 2 |
|---------------|---|

I. IDENTITY AND INTEREST OF AMICUS

The Washington State Association of Municipal Attorneys (WSAMA) is a nonprofit Washington corporation that provides education and training in the area of municipal law to attorneys who represent cities and towns throughout the State of Washington. The Washington State Association of Municipal Attorneys also works to advance knowledge of municipal law at the state-level to assist judicial and legislative decision-making that impacts service provision by cities and towns to residents of the State of Washington. This brief of *amicus curiae* is provided by WSAMA in furtherance of these purposes.

Each year WSAMA provides training on the Public Records Act (PRA), codified at Revised Code of Washington (RCW) 42.56, to municipal attorneys, which can include applicable statute(s) of limitation. The Washington State Association of Municipal Attorneys submits this brief of *amicus curiae* to request that this Court clarify the contradictory opinions of the Court of Appeals Division I, *Tobin v. Warden*, and Division II, *Bartz v. DOC*. Resolving the disagreement between *Bartz* and *Tobin* will enhance the education provided by WSAMA to municipal attorneys throughout the State; and, correspondingly, facilitate PRA compliance by the cities and towns represented by WSAMA members.¹

The Washington State Association of Municipal Attorneys also submits this brief of *amicus curiae* to provide this Court with additional

¹ See, generally, *Tobin v. Warden*, 156 Wn. App. 507, 233 P.3d 906 (2010), and *Bartz v. DOC*, 173 Wn. App. 522, 297 P.3d 737 (2013).

information regarding implementation and effect of the PRA at the municipal level. Ensuring that this Court has thorough and accurate information regarding the impact of the PRA statute of limitations on municipal government increases the likelihood that this Court's decision will improve municipal service provision, including PRA compliance, to the residents of the State of Washington.

II. STATEMENT OF FACTS

The Washington State Association of Municipal Attorneys adopts the Statement of Facts provided by Jefferson County in its Supplemental Brief. *Supplemental Brief of Respondent*, 2-3.

III. LEGAL AUTHORITY AND ARGUMENT

Rule of Appellate Procedure (RAP) 13.4(b) implies that Review by this Court is appropriate to correct decisions of the Court of Appeals that are in conflict with decisions of this Court or another decision of the Court of Appeals. RAP 13.4(b)(1-2). In the instant case, the decision of the Court of Appeals conflicts with other decisions of the Court of Appeals and decisions of this Court. In particular, the Court of Appeals' decision in this matter is in conflict with other decisions by the Court of Appeals addressing the statute of limitation applicable to PRA claims, which are also in conflict with each other. The Washington State Association of Municipal Attorneys urges this Court to resolve the division of authority by affirming the holding of the Court of Appeals in this matter but clarifying the basis upon which the holding rests.

In so doing, WSAMA urges this Court to maintain legislatively created distinctions between the PRA and tort claims. The PRA is a separate and distinct body of law, and this Court should not graft onto it statutory provisions and doctrines from other areas of law. Petitioner requests exactly such grafting by requesting that this court apply a general statute of limitation for common law claims in lieu of the specific statute of limitations provided within the PRA and by requesting the application of a tort law doctrine, the discovery rule, to his PRA claim. Petitioner's request goes too far and asks this Court to deviate from the stated scope of the general statute of limitation and the discovery rule. For these reasons, WSAMA requests that this Court reject Petitioner's arguments.

A. This Court should resolve the division of authority on the application of the one-year statute of limitation to public records claims.

Revised Code of Washington 42.56.550(6) states that "actions under this section [judicial review of agency actions] must be filed within one year of the agency's claim of exemption or the last production of a record on a partial or installment basis." An agency response to a public records request can be concluded by either a claim of exemption, or by a final installment. In these instances, the critical component is the termination of the agency action. Termination of agency action also occurs when an agency responds to a public records request with a single response.

Despite the consistency of termination, Division One of the Court

of Appeals has held that “a single document that is the entirety of the requested record...is not a record provided on a partial or installment basis,” and, consequently, “the one-year statute of limitations does not apply.” *Tobin*, 156 Wn. App. at , 514-15, ¶ 10, ¶ 13, 233 P.3d at 909-10. The consequence of Division One’s opinion in *Tobin* is that a one year statute of limitations, RCW 42.56.550(6), only applies when an agency asserts an exemption, or responds with multiple installments. *Tobin* is silent as to what statute of limitation, if any, Division One would apply when an agency provides a single response, such as a rejection on the basis that no responsive documents exist or the one-time provision of responsive documents.

Division Two of the Court of Appeals rejected *Tobin* because it created “a more lenient statute of limitations for one category of PRA requests” and “no statute of limitations for PRA action involving the production of a single” response. *Bartz*, 173 Wn. App. at 537, ¶ 30, 297 P.3d at 743. Instead, Division Two held that “the legislature intended that the PRA’s one-year statute of limitations would apply to PRA requests completed by an agency’s single production of records.” *Id* at 538, ¶ 32. The *Bartz* decision unified the statute of limitation applicable when an agency response is terminated, regardless of the means by which it is terminated.

Unfortunately, however, the holdings in *Tobin* and *Bartz* are mutually exclusive; whether RCW 42.56.0550(6) applies to an agency’s

single response now depends on where the agency is located. Such an inconsistency frustrates the purpose of the PRA by creating disparate standards for citizen access to public records and convolutes WSAMA's educational efforts to promote knowledgeable municipal attorneys. For these reasons, WSAMA urges this Court to adopt the holding in *Bartz*. Adopting the holding in *Bartz* would not only affirm the decision of the Court of Appeals in this matter, but it would provide clear and consistent guidance to WSAMA, and public agencies throughout the State.

B. This Court should not apply the “catch-all” statute of limitation to Petitioner’s PRA claim.

The decision of the Court of Appeals in this matter exemplifies why this Court should overrule *Tobin* and adopt the holding in *Bartz*. “The purpose of a statute of limitations is to compel the exercise of a right of action within a reasonable time so opposing parties have fair opportunity to defend.” *Rental Housing Ass'n of Puget Sound v. City of Des Moines*, 165 Sn. 2d 525, 555, ¶ 65, 199 P.3d 393, 408 (2009). “Given that the purpose of a statute of limitations is to provide finality... it [is] unlikely that the legislature intended... loophole[s].” *Atchison v. Great Western Malting Co.*, 161 Wn. 2d 372, 382, 166 P.3d 662, 666 (2007).

In *Bartz*, Division Two noted that *Tobin* resulted in “no statute of limitations for PRA action involving the production of a single” response. *Bartz*, 173 Wn. App. at 537, ¶ 30, 297 P.3d at 743. Division Two rejected *Tobin* because no statute of limitations for PRA actions involving the

production of a single response is exactly the kind of loophole the court should not infer. In this matter, the Court of Appeals created an entirely different loophole by concluding that “a request for record under the PRA is subject to two separate limitation periods.” *Belenski v. Jefferson County*, 187 Wn. App. 724, 739, ¶ 28, 350 P.3d 689, 697 (2015). Opting for the “two statutes of limitation loophole” over the “no statute of limitations loophole” is misplaced. The function of the court is not to select one loophole over another, it is to construe the statutes in such a manner so as to avoid *any* loopholes.

Division Two applied RCW 4.16.130 as the second applicable statute of limitation, stating it was a “catch-all.” *Belenski*, 187 Wn. App. at 739, ¶ 28, 350 P.3d at 697 (citing *Johnson v. State Dept. of Corrections*, 164 Wn. App. 769, 770, ¶ 17, 265 P.3d 216, 220 (2011)). The decision misreads both *Johnson* and the applicability RCW 4.16.130. For these reasons, WSAMA encourages this Court to see the conflict between RCW 42.56.550(6) and RCW 4.16.130 in the context of the PRA as an artifice and adopt the *Bartz* holding that RCW 42.56.556(6) is the only statute of limitation that applies to PRA claims.

1. *Johnson v. State Dept. of Corrections* does not necessitate applying the two-year statute of limitation to public records claims.

In *Johnson*, the Court of Appeals did not apply RCW 4.16.130 to the PRA claim. The Court explicitly stated that they “need not choose whether RCW 42.56.550(6)’s one-year statute of limitations or RCW

4.16.130's two-year 'catch-all' statute of limitations applies." *Johnson*, 164 Wn. App. at 778, ¶ 17, 265 P.3d at 220. The *Johnson* holding is that the claim was time-barred regardless of which statute of limitation applied. In this matter, the Court of Appeals could have followed *Johnson's* reasoning, but instead explicitly applied RCW 4.16.130. *Belenski*, 187 Wn. App. at 739, ¶ 30, 350 P.3d at 697. Although the court was correct to conclude that Petitioner's claim was time-barred, it was error to apply RCW 4.16.130 instead of the one year statute in RCW 42.56.550(6).

When a cause of action has its own statute of limitation, the court does not need to look to other, general statutes of limitation. *See, Sagner v. Sagner*, 159 Wn. App. 741, 748, 247 P.3d 444, *review denied*, 171 Wn.2d 1026, 257 P.3d 664 (2011) ("We resolve any apparent conflict between statutes by using the established rule of statutory construction that favors specific statutory language over general provisions"). The Public Records Act has its own, specific statute of limitation, RCW 42.56.550(6), that applies to "judicial review of agency actions." To avoid creating a loophole, the analysis of PRA claims begins and ends there. Consequently, this Court should clarify the decision of the Court of Appeals that Petitioner's claim was time-barred under RCW 42.56.130, not 4.16.130.

2. The plain language of the two-year statute of limitation precludes its application to public records claims which are governed by the PRA statute.

Eliminating the application of RCW 4.16.130 claims would not only solve disagreement within the Court of Appeals, but would also conform to the plain language of the statute. Revised Code of Washington 4.16.130 states that “an action for relief *not hereinbefore* provided for, shall be commenced within two years after the cause of action shall have accrued.” RCW 4.16.130 (emphasis added).

The purpose of RCW 4.16.130 is to address tort, contract and real property claims not captured in the preceding statutes. *City of Port Townsend v. Eisenbeis*, 28 Wn. 533, 542, 68 P. 1045, 1048 (1902). Thus, the only instance in which RCW 4.16.130 is applicable is when a specific statutory limitation period is not “hereinbefore provided”. The PRA creates its own cause of action; but does not create common law causes of action such as a tort claim. *Corey v. Pierce County*, 154 Wn. App. 752, 767, ¶ 30, 225 P.3d 367, 375 (2010). Consequently, RCW 4.16.130 does not apply to PRA claims. Instead, the Legislature created a separate right of action in the PRA: RCW 42.56.550, with its own statute of limitation, RCW 42.56.550(6). The holding in *Bartz* is consistent with this distinction between RCW 4.16.130 and RCW 42.56.550(6). WSAMA encourages this Court to adopt the holding in *Bartz* to foreclose an incorrect application of RCW 4.16.130 to the PRA that could be extrapolated to

other statutorily created causes of action.³

C. This Court should not apply the discovery rule to Petitioner's PRA claim.

Petitioner urges this court to further conflate the PRA with other causes of action, such as tort by applying the discovery rule to petitioner's PRA claim. *Petition for Review*, p. 11. This Court should reject Petitioner's request and hold that the discovery rule does not apply to PRA claims because there is no basis for extending the discovery rule to the PRA and because it is the province of the Legislature to extend the discovery rule beyond tort causes of action.

1. The Discovery Rule is not applicable to the PRA.

"In certain torts... injured parties do not, or cannot know they have been injured; in these cases, a cause of action accrues at the time the plaintiff knew or should have known all of the essential elements of the cause of action... [This] is known as the discovery rule." *White v. Johns-Manville Corp.*, 103 Wn. 2d 344, 348, 693 P.2d 687, 691 (1985). The discovery rule is an exception to general statute of limitation for certain tort claims. *In the Matter of Estates of Hibbard*, 118 Wn. 2d 737, 745, 826 P.2d 690, 694 (1992). As such, it does regularly not apply outside of tort

³ See, for example, *State ex rel. Cowlitz Mortg. Co. v. Millard*, 19 Wn. 2d 456, 460-61, 143 p.2d 304, 306 (1943), in which this Court declined to apply the two-year statute of limitation to collections of special assessment where the legislative act contained its own ten-year statute of limitation..

claims.⁴ See, for example, *Harmony at Madrona Park Owners Ass'n v. Madison Harmony Development, Inc.*, 143 Wn. App. 345, 357, ¶16, 177 P.3d 755, 761 (2008) (holding that the discovery rule does not apply to a breach of contract claim). In fact, the discovery rule does not even extend to *all* tort claims.⁵

Instead, the discovery rule has been extended on a case-by-case basis. “In each of these instances, had the discovery rule not been applied, the plaintiff would have been denied a meaningful opportunity to bring a warranted cause of action.” *Architectonics Const. Management, Inc. v. Khorram*, 111 Wn. App. 725, 732, 45 P.3d 1142, 1146 (2002) (dicta; overruled by *1000 Virginia Ltd. Partnership v. Vertecs Corp.*, 158 Wn. 2d 566, 572, ¶ 3-4, 146 P.3d 423, 426 (2006)). Notwithstanding that a PRA claim is not a tort, Petitioner is not entitled to an extension of the discovery rule.⁶

Unlike the cases where the discovery rule has been extended, Petitioner in this matter was not denied a meaningful opportunity to bring a cause of action. Petitioner knew of the existence of Internet Access Logs (IALs) both based on personal knowledge and past experience with the

4 Arguably the only instance where a court has applied the discovery rule beyond a tort case is for actions for breach of implied warranty of habitability. *Stuart v. Coldwell Banker Commercial Group, Inc.*, 109 Wn.2d 406, 414, 745 P.2d 1284, 1289 (1987).

5 In *In the Matter of Estates of Hibbard*, the Court of Appeals held that “the discovery rule applies in *all* negligence cases.” 60 Wn. App. 252, 258, 803 P.2d 1312, 1316 (1991). This holding was overruled in favor of a case-by-case extension of the discovery to “*certain* torts.” *Estates of Hibbard*, 118 Wn. 2d at 745, 826 P.2d at 694 (emphasis added).

6 A PRA claim is not a tort claim. *Corey v. Pierce County*, 154 Wn. App. 752, 767, ¶ 30, 225 P.3d 367, 375 (2010).

Respondent. *Petition for Review*, p. 3. Consequently, Petitioner's cause of action, if any, was ripe upon his receipt of the Respondent's notification that it did had "no responsive records."⁷ CP 214. Because Petitioner had a meaningful opportunity to bring a cause of action, there is no just reason to extend the discovery rule to petitioner's claim. For this reason, WSAMA urges this Court to hold that the discovery rule does not apply to PRA claims.

2. Extending the discovery rule beyond tort claims is done by the Legislature.

This Court should decline to extent the discovery rule to PRA claims not only because it is inconsistent with the criterion by which other cases have extended the discovery rule, but also because it is the province of the Legislature to extent the discovery rule beyond tort claims. *U.S. Oil & Refining Co. v. State Dept. of Ecology*, 96 Wn. 2d 85, 92, 633 P.2d 1329, 1333 (1981). The Legislature has incorporated the discovery rule into statutes of limitation for fraud,⁸ misappropriation of public funds penalty or forfeiture,⁹ personal injury caused by childhood sexual abuse,¹⁰

⁷ Notably, "no responsive records" does not have the same meaning as "no records." It is inherent in the use of the word "responsive" that records exist; but they are not responsive. Petitioner's reliance on *Progressive Animal Welfare Soc. v. University of Washington*, 125 Wn. 2d 243, 250, 884 P.2d 592, 596 (1994) (PAWS II), is misplaced. In PAWS II, the Court described the agency's response as a denial without any reference to the substance of the denial. Instead, what was critical was that the denial precluded the requester from learning that any record exists. *Rental Housing Ass'n of Puget Sound v. City of Des Moines*, 165 Wn. 2d 252, 537, 199 P.3d 393, 399 (2009). Respondent's statement of "no responsive records" did not prescribe Petitioner's knowledge that IALs existed. Consequently, there is no silent withholding in this matter.

⁸ RCW 4.16.080(4).

⁹ RCW 4.16.080(6).

¹⁰ RCW 4.16.340(1)(b).

medical malpractice,¹¹ misappropriation of trade secrets,¹² and Uniform Commercial Code claims for breach of warranty of future performance.¹³

The Legislature could have done the same for the PRA, but did not. “This court is required to assume the Legislature meant exactly what it said.” *Recall of Pearsall-Stipek*, 141 Wn. 2d at 768, 10 P.3d at 1041. The Legislature addressed judicial review of agency actions in RCW 42.56.550.¹⁴ There is no language in RCW 42.56.550 matching the language found in RCW 4.16.080, 4.16.340, 4.16.350, 19.108.060, or 62A.2-725 that provides a discovery rule. Because the Legislature did not include discovery rule language in RCW 42.56.550, this Court is bound to assume that the Legislature meant what it said, and what it did not say, and should not read discovery rule language into the PRA.¹⁵

IV. CONCLUSION

Review by this Court exists to correct decisions of the Court of Appeals that are in conflict with decisions of this Court or another decision of the Court of Appeals and to resolve divisions of authority between decisions of the Court of Appeals. Together with *Tobin*, the Court of Appeals’ decision in this case conflicts with the Court of Appeals’ decision in *Bartz* that applies RCW 42.56.550(6) to *all* PRA claims. *Bartz*,

11 RCW 4.16.350(3).

12 RCW 19.108.060,

13 RCW 62A.2-725(2).

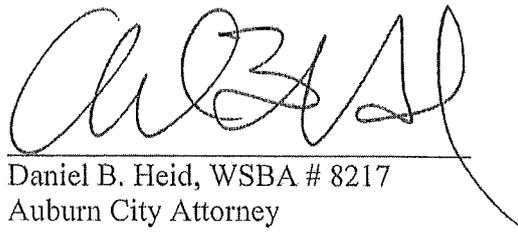
14 The statute provides for “judicial review of agency actions” without reference to any exception, which is further evidence that RCW 4.16.130 is inapplicable to the PRA.

15 “This court is required to assume the Legislature meant exactly what it said.” *Recall of Pearsall-Stipek*, 141 Wn. 2d at 768, 10 P.3d at 1041.

173 Wn. App. at 538, ¶ 32, 297 P.3d at 743. The Washington State Association of Municipal Attorneys submits this *amicus curiae* to request that this Court resolve the division of authority and affirm the holding of the Court of Appeals in this matter but clarify the statute of limitation applicable to PRA claims by adopting the holding in *Bartz*.

Clarification provided by this Court should not, however, accept Petitioner's invitation to incorporate statutes and doctrines from other areas of law into the PRA and instead leave any such change to the legislature. Revised Code of Washington 4.16.130 is a general statute of limitation applicable to common law claims not otherwise provided for. *City of Port Townsend*, 28 Wn. at 542, 68 P. at 1048. Because a PRA claim is governed by the one year statute in RCW 42.56.550(6), RCW 4.16.130 is inapplicable. The discovery rule is, likewise, inapplicable. The discovery rule has been applied by this Court to a limited number of tort claims and by the Legislature to a limited number of other claims. *Harmony at Madrona Park Owners Ass'n*, 143 Wn. App. at 357, ¶16, 177 P.3d at 761; *U.S. Oil & Refining Co.*, 96 Wn. 2d at 92, 633 P.2d at 1333. None of these factors are present in this matter. For these reasons, WSAMA requests that this Court reject Petitioner's arguments and affirm the decision of the Court of Appeals on the basis of the reasoning provided in *Bartz*.

Respectfully submitted this 25th day of March, 2016.



Daniel B. Heid, WSBA # 8217
Auburn City Attorney
City of Auburn
25 W. Main Street
Auburn, WA 98001-4889
(253) 931-3030
dheid@auburnwa.gov

Attorney for Washington State Association of Municipal Attorneys

OFFICE RECEPTIONIST, CLERK

To: Dan Heid
Cc: 'dalvarez@co.jefferson.wa.us'; 'jmyers@lldkb.com'; 'mbelenski@gmail.com';
'michele@alliedlawgroup.com'
Subject: RE: WSAMA Amicus – Mike Belenski v Jefferson County . 92161-0 - Letter, Motion and Memorandum

Rec'd 3/25/16

Supreme Court Clerk's Office

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

From: Dan Heid [mailto:dheid@auburnwa.gov]
Sent: Friday, March 25, 2016 4:52 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: 'dalvarez@co.jefferson.wa.us' <dalvarez@co.jefferson.wa.us>; 'jmyers@lldkb.com' <jmyers@lldkb.com>; 'mbelenski@gmail.com' <mbelenski@gmail.com>; 'michele@alliedlawgroup.com' <michele@alliedlawgroup.com>
Subject: WSAMA Amicus – Mike Belenski v Jefferson County . 92161-0 - Letter, Motion and Memorandum

Dear Mr. Carpenter:

Attached hereto please find an electronic copy of a Motion for Leave to file Brief of Amicus Curiae and a proposed Memorandum of Amicus Curiae of the Washington State Association of Municipal Attorneys in the above-referenced case. I am also including an electronic copy of a cover letter. Also, in addition to mailing our pleadings to counsel of record, per the certificate of mailing (appended to the Motion), for their convenience, I am also cc'ing them with this e-mail.

Please let me know if you have any questions. Thank you.

Daniel B. Heid
Auburn City Attorney
(253) 931-3030
dheid@auburnwa.gov

The information contained in this electronic communication is personal, privileged and/or confidential information intended only for the use of the individual(s) or entity(ies) to which it has been addressed. If you read this communication and are not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication, other than delivery to the intended recipient is strictly prohibited. If you have received this communication in error, please immediately notify the sender by reply e-mail. Thank you.

The information contained in this electronic communication is personal, privileged and/or confidential information intended only for the use of the individual(s) or entity(ies) to which it has been addressed. If you read this communication and are not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication, other than delivery to the intended recipient is strictly prohibited. If you have received this communication in error, please immediately notify the sender by reply e-mail. Thank you.