

**“HARD FACTS MAKE BAD LAW”**

**Riverkeeper v Port of Vancouver,  
USA**

**Open Public Meetings Act  
RCW 42.23.110(1)(c)**

**Washington Public Ports Association  
Commissioners Seminar  
July 24, 2017**

## Washington Supreme Court Decision – Spring 2017

- Is the term “the minimum price at which real estate will be offered for lease or sale” limited to “price” or can the factors that influence price be discussed?
  - Facts: POV had held a number of executive sessions to discuss a proposed lease to develop a oil terminal facility. The proposal was known to the public
  - 9-0 decision
    - Executive sessions are the exceptions to OPMA
    - First discuss the factors that bear on price in the public meeting
    - Next, go into executive session and discuss how those factors will effect price

- The practical implications and the “best practices” are still being discussed at WPPA legal committee
- Preliminary look
  - A publically known transaction
    - Discuss the common factors that may influence price
      - Staff may have a standard list
    - Then discuss the effect on price in an executive session
  - Perhaps more detailed briefing from staff in a “1,1,1” or “2,2,1”

- A as yet “not public” transaction
  - Discuss generally a theoretical transaction in public
    - “What would the commission think of a large warehouse facility and here are some factors that may influence price”
  - Then into executive session to discuss the price based on the factors
  - Perhaps more detailed briefing from staff in a “1,1,1” or “2,2,1”
- **Standby for a more definitive recommendation from WPPA and WPPA legal committee**

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