

COUNTIES & THE LAW

This edition of *Counties & the Law* includes decisions of interest to county attorneys published in the Daily Report Opinions Weekly between May 7, 2016, and May 13, 2016.

We welcome your suggestions and opinions regarding Counties & the Law. Please contact Kelly Pridgen at kpridgen@accg.org or Joe Scheuer at jscheuer@accg.org with your comments.

WEAPONS

Georgiacarry.org v. Atlanta Botanical Garden, Inc.

Supreme Court of Georgia
May 13, 2016; S16A0294

A person carrying a gun who was escorted from the premises of the botanical garden (BG) sought declaratory and injunctive relief on the basis that O.C.G.A. 16-11-127(c) allowed the carrying of weapons on premises leased from a city. The trial court relied upon the *Butler* case and dismissed the petition on the basis that it was being asked to interpret a criminal statute. The Supreme Court reversed in part. A declaratory judgment action is not inappropriate merely because it touches upon a question of criminal law. It is an available remedy to test the validity and enforceability of a statute where an actual controversy exists. The case was remanded back to trial court to determine whether a licensed weapon carrier can enter upon the premises of the BG under the statute. The dismissal regarding the injunction was affirmed because the BG lacked the authority to administer criminal law.

OPEN MEETINGS/OPEN RECORDS

Chua v. Johnson

Georgia Court of Appeals
May 10, 2016; A15A1728

A convicted felon sought to require a district attorney to provide a copy of a specific document under an open records request that was related to a criminal prosecution. The DA responded timely and set forth the legal basis for denial as attorney work product. However, the DA failed to include the citation to the applicable exemption as required by O.C.G.A. 50-18-71. This technical failure did not automatically entitle

the requestor to the document. The trial court would have to conduct an evidentiary hearing to determine the status of the document.

TAXATION

Columbus, GA Board of Tax Assessors v. The Medical Center Hospital Authority

Georgia Court of Appeals
May 13, 2016; A15A2407

This case involves a dispute regarding the ad valorem taxation of property of a hospital authority (HA). Under O.C.G.A. 31-7-72 (e)(1), HA's are granted the same tax exemptions as cities and counties. This means that real property which furthers the functions of the HA are exempt under O.C.G.A. 48-5-41. Under O.C.G.A. 31-7-72 (e)(2), however, if 50% or more of real property is leased to a private for profit business, the exemption does not apply. In this case, the court found that the 50% threshold had not been exceeded so the exemption applied.