

No. A19-0347

STATE OF MINNESOTA
IN COURT OF APPEALS

FILED

March 15, 2019

**OFFICE OF
APPELLATE COURTS**

Public Record Media,

Appellant,

v.

Minnesota Department of Employment
and Economic Development,

and

Greater MSP,

Respondents.

**REQUEST OF CENTER OF
THE AMERICAN EXPERIMENT
FOR LEAVE TO FILE A BRIEF
*AMICUS CURIAE***

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In accordance with Minnesota Rule of Appellate Procedure 129.01, Center of the American Experiment (the “Center”) respectfully seeks this Court’s permission to file a brief *amicus curiae* in the above-captioned appeal.

Interest and Identity of the Center

The Center’s interest is public. The Center is a non-partisan educational organization dedicated to the principles of individual sovereignty, private property and the rule of law. It advocates for creative policies that limit government involvement in individual affairs and promotes competition and consumer choice in a free market environment. The Center is a non-profit, tax-exempt educational organization under Section 501(c)(3) of the Internal Revenue Code. The Center has participated as *amicus curiae* in several recent cases before this Court raising important issues of public interest and constitutional law. *See, e.g., Wiebesick v. City of Golden Valley*, 899 N.W.2d 152 (Minn. 2017); *Ninetieth Minnesota State Senate v. Dayton*, 903 N.W.2d 609 (Minn. 2017); *First Baptist Church of St. Paul v. City of St. Paul*, 884 N.W.2d 355 (Minn. 2016); *McCaughtry v. City of Red Wing*, 831 N.W.2d 518 (Minn. 2013).

Position of the Center

The Center seeks leave to participate in order to file an *amicus* brief in support of Appellant’s position on appeal in a freedom-of-information case with broad

ramifications for government transparency and taxpayer accountability in Minnesota. Consequently, the Center's *amicus* brief will suggest reversal.

Desirability of the Center's Participation as *Amicus Curiae*

The Center respectfully maintains that its *amicus* brief is desirable because this case raises basic government accountability questions for policy organizations like the Center, and interests beyond the named parties such as media organizations and civic organizations that strive to obtain and analyze information on state economic projects to share with citizens.

In this case, the Ramsey County District Court essentially held that information assembled by a state agency – in this case, the Minnesota Department of Employment and Economic Development (“DEED”) – can be shielded from disclosure under the Minnesota Government Data Practices Act, Minn. Stat. § 13.01, *et. seq.* (“MGDPA”), so long as the information is run through a consultant – here, Greater MSP. Appellant Public Record Media (“PRM”) sought disclosure of the State of Minnesota's bid for the Amazon second corporate headquarters (“HQ2”), which DEED assembled with help from Greater MSP. However, when PRM sought a copy of the HQ2 bid, both DEED and Greater MSP refused the request, and PRM sued to enforce its rights under the MGDPA. Respondents successfully argued to the district court that the HQ2 bid did not contain government data because the bid was stored on a file-sharing site rather than a government site, and that Greater MSP

had no contract or agency relationship with the State of Minnesota, therefore placing the HQ2 bid out of reach of the public under the MGDPA. Yet, the State of Minnesota, not Greater MSP, was the bidder for HQ2. Certainly, some contractual relationship existed between DEED and Greater MSP, and government data was included in the HQ2 bid.

The Center believes it can offer a valuable perspective regarding the important statutory and policy issues presented, and that it can assist the Court by clarifying and furthering debate.

For these reasons, the Center respectfully requests the opportunity to participate in this case as amicus curiae in support of Appellant.

Date: March 15, 2019

Respectfully submitted,

s/James V. F. Dickey
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