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# THE PLAIN DEALER

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## Too quick to close files

General Environmental Management LLC got away with robbery, and Cleveland Housing Court Judge Raymond Pianka mistakenly gave it the key.

GEM was in court recently because the city of Cleveland wants the waste management company to shut down until it meets city safety codes. A magistrate ruled that it can stay open with some restrictions. As part of that case, GEM demanded that the city return more than 2,000 company documents, claiming they included trade secrets. The court agreed.

The city's lawyers will retain the right to view the records for their litigation, but the successful motion allows GEM "to prevent their dissemination by plaintiff to a third party, in response to a public request . . ."

Pianka's decision would be unassailable if GEM had gone to some lengths to prove that the documents included only confidential information such as employees' pay and other financial matters. It did not.

Sandy Buchanan, executive director of Ohio Citizen Action, an environmental organization, points out that some of the documents marked

confidential were available through public agencies and on Web sites.

GEM's lawyer said the company pulled the records together quickly and can't guarantee that all of them are actually confidential.

It seems as if GEM pulled a fast one on a court that should have been far more scrupulous about separating confidential documents from public ones. There is no excuse for allowing GEM to whisk away even one record that belongs in the public domain.

The court's remedy, if it can be called that, makes the *public* leap over hurdles.

The judgment entry says that the city's lawyers can request a court date to challenge any document they believe should not be out of the public's view. But the burden of proof should fall on GEM, which is attempting to cut off the flow of public information.

Pianka is an excellent judge. He is hard-working and passionate about improving the condition of Cleveland's neighborhoods. But he erred in this decision. And the public's knowledge of this troubled company may be improperly limited because of it.