

CAI Files Amicus Brief in NSBA v. Treasury – Corporate Transparency Act

30 May 2024

The Corporate Transparency Act (“CTA”), which went into effect on January 1, 2024, was enacted to curb tax fraud, terrorism financing, money laundering, and other illicit activity by requiring business entities to report information about their owners. Specifically, entities covered under the CTA are required to file a Beneficial Ownership Information (“BOI”) Report with the U.S. Department of Treasury’s Financial Crimes Enforcement Network (“FinCEN”) that contains information about individuals with certain interests in the business.

Although the intent of the CTA is to limit illicit activity carried out by anonymous business entities, the CTA requires countless above-board entities, including nonprofit community associations, to file BOIs. The National Small Business Association sued the Department of Treasury in the Northern District of Alabama, challenging the constitutionality of the CTA. In March 2024, the U.S. District Court for the Northern District of Alabama ruled that the CTA was an unconstitutional overreach of congressional power, and the Treasury Department appealed that decision to the 11th Circuit. On May 20, 2024, the Community Association Institute (“CAI”) filed an amicus brief in the U.S. Court of Appeals for the 11th Circuit in *National Small Business United, et al. v. U.S. Department of the Treasury, et al.*

In its amicus brief, CAI argued that the CTA – a law designed to limit terrorist financing and illicit money laundering – should not apply to local, nonprofit community associations. In the brief, CAI emphasized the fact that most community associations rely on the willingness of owners to serve as volunteer boards to make their communities better places to live. Requiring potential volunteers to provide their personal information to FinCEN would likely dampen individual interest in serving on volunteer boards and, in turn, render community associations difficult if not impossible to operate.

CAI also argued that community associations are not a hotbed for terrorist activity or money laundering and, therefore, are not the intended target of this law. In addition, the ownership of community associations is already de-anonymized. Indeed, when a person or entity purchases a unit in a community association, the buyer’s information is reflected in the land records in which the association is located. CAI also emphasized the fact that community associations are already required to file annual reports to state governments identifying their officers and directors. As the information that would be contained in the BOI reports is already available through the land records or other state agencies for community associations, these entities should not be required to file BOIs with FinCEN as well. For the reasons outlined above, CAI requested that community associations be granted an exemption from the CTA’s reporting requirements.

The U.S. Court of Appeals for the 11th Circuit will hear oral arguments on the appeal in the coming months. If the appellate court affirms the trial court’s decision, the case will likely head to the Supreme Court.

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CAI FILES AMICUS BRIEF IN NSBA V. TREASURY CORPORATE TRANSPARENCY ACT

The Corporate Transparency Act (“CTA”), which went into effect on January 1, 2024, was enacted to curb tax fraud, terrorism financing, money laundering, and other illicit activity by requiring business entities to report information about their owners. Specifically, entities covered under the CTA are required to file a Beneficial Ownership Information (“BOI”) Report with the U.S. Department of Treasury’s Financial Crimes Enforcement Network (“FinCEN”) that contains information about individuals with certain interests in the business.

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