

## Theft of computers prompts lawsuit by residents

By MICHAEL CASS  
Staff Writer

Metro Nashville asked a security company Friday to pay the city more than \$100,000 in damages — and perhaps more down the line — over the theft of two computers containing voters' Social Security numbers.

Meanwhile, three Nashville residents filed a class-action lawsuit against Metro, the security company and a subcontractor, saying they should pay for credit monitoring reports and other protections for each of the 337,000 voters.

The city asked Wackenhut Corp. to reimburse the money it spent to mail letters to each of the voters whose Social Security numbers were stored — but not encrypted — on the laptop computers. The computers were stolen from the Davidson County Election Commission before Christmas.

Election Administrator Ray Barrett put the cost of mailing the letters, which started landing in voters' mailboxes Friday, at \$109,000. But that may not be all Metro wants from the company.

Metro Law Director Sue Cain wrote in a letter to Wackenhut's Nashville general manager, Andrew Bedlack, that Metro also "reserves the right to seek ... any additional damages it incurs as a result" of the break-in.

Cain wrote that Wackenhut's security guard "breached his responsibilities and was negligent in the performance of his duties" at the time of the theft, resulting in costs for Metro. The guard actually worked for a subcontractor, which has fired him.

City officials said at a Metro Council committee meeting Thursday that the guard listened to music, ordered food and failed to make his hourly rounds on the night of the burglary. A digital recording device was found unplugged after the crime was discovered, making it impossible to see who might have come into the Metro Office Building on Second Avenue South.

David Raybin, a Nashville attorney who specializes in identity theft cases, said the city should aggressively go after Wackenhut. He called Cain's letter "a good first step" but said Metro also should seek more money from the security firm to pay for consumer protections.

Raybin said the city should form a task force, funded by Wackenhut, to address the problem by providing credit monitoring for every voter and taking other necessary

steps. Letting voters know their Social Security numbers could be compromised is not nearly enough, he said.

"Notification is no solution. You've got to be proactive and go out there and protect people's identities aggressively."

Told of Raybin's comments, Cain said, "Metro is going to expect Wackenhut to live up to its contract."

### **Suit alleges negligence**

The class-action suit attempts to do what Raybin said Metro should be doing, but the city is a defendant in it, alongside Wackenhut and its subcontractor, Specialized Security Consultants of Mt. Juliet.

"Each defendant is guilty of negligence," the complaint reads.

The lawsuit, filed in Davidson County Circuit Court, says Metro should be required to tell all of the major national credit reporting agencies about each individual voter whose credit could be hurt by the theft. It also asks that Metro, Wackenhut and Specialized be ordered to buy credit reports and at least 90 days of credit monitoring for every voter.

"Voters whose information was lost through pretty astonishing negligence shouldn't have to bear that expense," said Gary Blackburn, one of the attorneys for the three named plaintiffs.

The complaint also says Metro and the security firms should have to "hold harmless" and pay back each voter for any financial damages that result from sensitive data falling into the wrong hands.

"We don't know if it's occurred yet," Blackburn said.

The suit says Metro violated the Tennessee Consumer Protection Act by failing to encrypt the Social Security numbers, which would have made it impossible for a thief to read them. The two computers were password-protected.

The complaint was filed by lawyer and former Oak Hill Mayor Raymond T. Throckmorton III, Timothy T. Ishii and Regina Newson. Their attorneys are Blackburn and John Ray Clemmons, who were campaign advisers to former U.S. Rep. Bob Clement in his unsuccessful bid to become Nashville's mayor last year. Clement lost in a runoff election to Karl Dean.

Blackburn said the suit was not politically motivated.

"Karl Dean didn't do this," he said.