



RTK Number: _____

pennsylvania

OFFICE OF OPEN RECORDS
WORCESTER TOWNSHIP, MONTGOMERY COUNTY

STANDARD RIGHT-TO-KNOW REQUEST FORM

RECORDED
15 due 7/17
15-1369

DATE REQUESTED: 7/10/15

REQUEST SUBMITTED BY: E-MAIL U.S. MAIL FAX IN-PERSON

NAME OF REQUESTOR: jim mollick

REQUESTOR STREET ADDRESS: _____

REQUESTOR CITY/STATE/COUNTY (Required): _____

REQUESTOR TELEPHONE (Optional): _____

REQUESTOR E-MAIL ADDRESS (Optional): _____

RECORDS REQUESTED:

**Provide as much specific detail as possible so the agency can identify the information.*

see attached

DO YOU WANT COPIES? YES or NO

DO YOU WANT TO INSPECT THE RECORDS? YES or NO

DO YOU WANT CERTIFIED COPIES OF RECORDS? YES or NO

RIGHT TO KNOW OFFICER: TOWNSHIP MANAGER OR ASSISTANT MANAGER

DATE RECEIVED BY THE AGENCY:

AGENCY FIVE (5)-DAY RESPONSE DUE:

***Public bodies may fill anonymous verbal or written requests. If the requestor wishes to pursue the relief and remedies provided for in this Act, the request must be in writing. (Section 702.) Written requests need not include an explanation why information is sought or the intended use of the information unless otherwise required by law. (Section 703.)*

From: jim
Sent: Friday, July 10, 2015 9:31 AM
To: Erica Lucey
Subject: rtk
Attachments: RTK Worcester 7 10 15.pdf

Right to Know Officer,

I filed a Right to Know request on June 16, 2014 with Worcester Township.

In that request I asked for,

1. **Copies of all of the conditional use hearing audio cd's to date**
2. Budget analysis reports monthly for 2013 and the summary report for the year ending 2013.
3. Budget analysis reports monthly for 2014.

If these are available in electronic format, this would be preferred.

Please scan and transmit electronically as does almost every other Township in Montgomery County.

The Township responded to my request in a letter dated July 23, 2014.

In that response the Township states,

“as you know, I am the open records Officer for the Worcester Township (the Township). The Township received an e-mail from you on June 16, 2014, consisting of the following three (3) part right to know law (RTKL) request (“ the request”) seeking the following:

1. **Copies of all of the conditional use hearing audio CDs to date.**
2. Budget analysis reports monthly for 2013 in the summary report for the year ending 2013.
3. Budget analysis reports monthly for 2014.

Part number one of your request is not properly limited in scope or time and, therefore, would be denied. However, **the Township does not create audio recordings of any conditional use hearings. Therefore, there are no records responsive to part No. 1 of your request.**
Part Nos. 2 and 3 of your Request are granted.

On August 12, 2014, I made a right to know request for, “copies of the DVD/CD recordings of any and/or all conditional use hearings (Methacton) to date beginning with the **CD recording of the 9/25/2013 conditional use hearing**, which I believe was the first meeting submitted as exhibit .

The Township responded in a letter dated August 18, 2014. In that letter, Mr. Mangan notes that, “As you know, I am the open records Officer. for Worcester Township. On August 12, 2014, you sent an e-mail to the Township consisting of the following right to know Law request:
I would like copies of the DVD/CD recordings of any and/or all conditional use hearings (Methacton) to date beginning with the CD recording of the 9/25/2013 conditional use hearing, which I believe was the first meeting. The request would be granted. **However, the Township**

does not have any records responsive to your request in its possession, custody or control. As you know, under our RTKL, the Township is not required to create a record which does not exist."

I appealed the Township's decision to the Office of Open Records in Harrisburg Docketed as AP 2014-1383. The Township's response was just downright nasty. Mr. Clement stated, "James Mollick's abuse of process and harassment of Worcester Township continues unabated. Unfortunately, a good deal of the abuse of process has been unintentionally enabled by the right to know law. Nearly every paragraph of the appeal filed by James Mollick in this matter contains a misrepresentation of fact." And this individual works for us?

In that appeal the Township's Lawyer Mr. Clement made the following statements –

- The Township does not have any records responsive to the request.
- On June 23, 2014, the Township substantively responded to the June 16, 2014 right to know law request by granting part numbers two and three of the request and further indicating that there were (and still are) no responsive records to part number one of the request.
- The Township expressly indicated that it does not create audio recordings of conditional use hearings because they're being transcribed "Word for Word" by a court reporter.
- There is no reason or need for the Township to create audio recordings of conditional use hearings.
- The Township does not make audio recordings of conditional use hearings.
- There are no records responsive to Mollick's August 12, 2014 RTKL request.

I provided the office of open records with a supplement which included certified records which showed that the Township had granted a request by Marcia Staples on September 26, 2013 for the CD recording of the 9/25/13 conditional use hearing. The Township granted this request in full in a letter dated September 30, 2013 to Marcia Staples and provided a CD recording of the conditional use hearings to the Staples.

After receiving this information, Jill Wolfe the hearing officer, instructed Worcester Township to provide an affidavit made under the penalties of perjury to clarify their position no later than the close of business on September 23, 2014.

Worcester Township, through their RTK Officer Lee Mangan, provided an affidavit and admitted they had audiotaped some of the conditional use hearings.

On October 6, 2014, a final determination was issued by the PA office of open records in which the Township was required to provide the responsive records to me. Needless to say, the Township agreed to provide me with the records for free.

The Township's repeated misrepresentations placed an unreasonable financial burdon upon the taxpayers of the Township in processing the requests.

With the above noted I would like to point out the following,

1. Under Section 302 of the RTK Law, a local agency may not deny a requester access to a public record due to the intended use of the public record by the requester.
2. Under Section 703 of the RTK law, a written request need not include any explanation of the requester's reason for requesting or intended use of the records.
3. Under the RTK Law there is no restriction as to the number of requests a requester can make.

Your duties under the RTK Law are expressly listed as follows,
Under Section 502 (b) as follows,
Functions.—

(1) The open-records officer shall receive requests submitted to the agency under this act, direct requests to other appropriate persons within the agency or to appropriate persons in another agency, track the agency's progress in responding to requests and issue interim and final responses under this act.

(2) Upon receiving a request for a public record, legislative record or financial record, the open-records officer shall do all of the following:

(i) Note the date of receipt on the written request.

(ii) Compute the day on which the five-day period under section 901 will expire and make a notation of that date on the written request.

(iii) Maintain an electronic or paper copy of a written request, including all documents submitted with the request until the request has been fulfilled. If the request is denied, the written request shall be maintained for 30 days or, if an appeal is filed, until a final determination is issued under section 1101(b) or the appeal is deemed denied.

(iv) Create a file for the retention of the original request, a copy of the response, a record of written communications with the requester and a copy of other communications. This subparagraph shall

only apply to Commonwealth agencies.

Under Section 902. Extension of time.

(a) Determination.— Upon receipt of a written request for access, the open-records officer for an agency shall determine if one of the following applies:

(1) the request for access requires redaction of a record in accordance with section 706;

(2) the request for access requires the retrieval of a record stored in a remote location;

(3) a timely response to the request for access cannot be accomplished due to bona fide and specified staffing limitations;

(4) a legal review is necessary to determine whether the record is a record subject to access under this act;

(5) the requester has not complied with the agency's policies regarding access to records;

(6) the requester refuses to pay applicable fees authorized by this act; or

(7) the extent or nature of the request precludes a response within the required time period.

(b) Notice.—

(1) Upon a determination that one of the factors listed in subsection (a) applies, the open-records officer shall send written notice to the requester within five business days of receipt of the request for access under subsection (a).

(2) The notice shall include a statement notifying the requester that the request for access is being reviewed, the reason for the review, a reasonable date that a response is expected to be provided and an estimate of applicable fees owed when the record becomes available. If the date that a response is expected to be provided is in excess of 30 days, following the five business days allowed for in section 901, the request for access shall be deemed denied unless the requester has agreed in writing to an extension to the date specified in the notice.

(3) If the requester agrees to the extension, the request shall be deemed denied on the day following the date specified in the notice if the agency has not provided a response by that date.

Section 903. Denial. If an agency's response is a denial of a written request for access, whether in whole or in part, the denial shall be issued in writing and shall include:

- (1) A description of the record requested.
- (2) The specific reasons for the denial, including a citation of supporting legal authority.
- (3) The typed or printed name, title, business address, business telephone number and signature of the open-records officer on whose authority the denial is issued.
- (4) Date of the response.
- (5) The procedure to appeal the denial of access under this act

I should also alert you to Section 701 Access.

(a) General rule.—Unless otherwise provided by law, a public record, legislative record or financial record shall be accessible for inspection and duplication in accordance with this act. A record being provided to a requester shall be provided in the medium requested if it exists in that medium; otherwise, it shall be provided in the medium in which it exists.

The following is a request for records made pursuant to the Right to Know Law ("RTKL"). Please be advised, the term "record" and "records" as used is defined under the Right to Know Law ("RTKL") as "Information, regardless of physical form or characteristics, that documents a transaction or activity of an agency and that is created, received or retained pursuant to law or in connection with a transaction, business or activity of the agency. The term includes a document, paper, letter, map, book, tape, photograph, film or sound recording, information stored or maintained electronically and a data-processed or image-processed document."

In light of the foregoing, the following records are requested,

1. Any and /or all client billing summaries, summary billing statements and/or client summary pages of legal bills, depending on what the legal department is calling them this month, for Requests No's. 14-1180 and 14-1212 and Appeal AP-2014-1383, monthly, from June of 2014 to April of 2015 .
2. Any and/or all invoices submitted by Wisler Pearlstine related to work performed for the Township on Request No's. 14-1180 and 14-1212 and Appeal AP-2014-1383, monthly, from June of 2014 to April of 2015.
3. The record that would show the total amount expended on Legal Fees to Wisler Pearlstine by the Township on Request No's. 14-1180 and 14-1212 and Appeal AP-2014-1383 to Date.
4. Any and/or all records of communication, including but not limited to emails on personal computers and personal email accounts between the Worcester Board of Supervisors collectively and/or individually regarding Susan G. Caughlan's "child pornography issue" including her position that "the inescapable conclusion is that the state is free to regulate material depicting child pornography except when an individual possesses it in the 'privacy of his own home.'" Please use the timeframe for the past 6 months
5. Any and/or all records of communication, including but not limited to emails on personal computers and personal email accounts between the Worcester Board of Supervisors collectively and/or individually and the Township Solicitor regarding Susan G. Caughlan's "child pornography issue" including her position that "the inescapable conclusion is that the state is free to regulate material depicting child pornography except when an individual possesses it in the 'privacy of his own home.'" Please use the time frame for the past 6 months.

...d like these records in electronic medium.

...ieve that the Invoices exist in Pdf format. This medium is requested.

Thanks

Jim Mollick