

RESOLUTION NO. 2009-15

A Resolution of the Richland Township Supervisors of Richland Township, Cambria County, Pennsylvania establishing a written Open Records Policy pursuant to Act 3 of 2008, designating an Open Records Officer, designating the business hours during which requests may be made, adopting a fee schedule, providing definitions of terms used, adopting forms to be used to carry out the policy, providing an effective date, providing that the policy be posted prominently at the administrative offices of the Township and repealing Resolution No. 2002-25 in its entirety.

WHEREAS, the Commonwealth of Pennsylvania has enacted Act 3 of 2008, known as "The Right to Know Law"; and,

WHEREAS, the act requires all local agencies to take certain steps in furtherance of same; and,

WHEREAS, it is the intent of the Board of Supervisors to comply with the mandate of said Act 3 of 2008.

NOW, THEREFORE, it is hereby resolved by the Board of Supervisors of Richland Township as follows:

I. Definitions:

(A) Act - Act 3 of 2008

(B) Local Agency - Richland Township, Cambria County, Pennsylvania

(C) Public Record - A record, including a financial record, of a Commonwealth

or local agency that:

(1) is not exempt under section 708 of Act 3 (65 PS Section 67.708);

(2) is not exempt from being disclosed under any other Federal or State law or regulation or judicial order or decree; or

(3) is not protected by a privilege.

(D) Record - 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.

(E) Requester - A person that is a legal resident of the United States and requests a record pursuant to this act. The term includes an agency.

(F) Response - Access to a record or an agency's written notice to a requester granting, denying or partially granting and partially denying access to a record.

(G) Township - Richland Township, Cambria County, Pennsylvania

II. Procedure:

A. A resident of the Commonwealth of Pennsylvania requesting access to a public record shall do so in writing, supplying the information required by the form described in Paragraph B. No oral or anonymous request for public records shall be honored.

B. The form to be used by a requester and by the Township in response to the request shall be in substantially the format set forth on Attachment No. 1 which format and content is incorporated hereby by reference. The form may be submitted in person, by mail, by facsimile, or by e-mail.

C. The form (Attachment No. 1) shall be submitted to the attention of the Executive Secretary to the Board of Supervisors (Open Records Officer) and delivered by any of the following means:

(1) By U.S. mail at the Richland Township Municipal Building, 322 Schoolhouse Road, Johnstown, Pennsylvania 15904; or,

(2) In person at the Administrative Office of Richland Township located at 322 Schoolhouse Road, Johnstown, Pennsylvania 15904, during the business hours of 8:00 A.M. to 4:00 P.M., Monday through Friday, excepting holidays, and days and times that the administrative offices are closed by directive of the Board of Supervisors; or,

(3) By facsimile at (814) 266-2024. Faxes received after 4:00 P.M. shall be considered received at 8:00 A.M. the next business day.

(4) By e-mail to kstayrook@richlandtwpc.com. E-mails received after 4:00 P.M. shall be considered received at 8:00 A.M. the next business day.

D. 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.

Notice: (1) Upon a determination that one of the factors listed in subsection (D) 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 of Act 3 (65 PS Section 67.901), 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.

D. 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.

III. Fee Schedule:

The Township sets forth the following fees for obtaining access to public records:

A. 1. Postage - the actual cost incurred by the Township to forward the records supplied by U.S. mail;

2. Copies - \$.25 per page;

3. Conversion of records maintained electronically to paper - \$.50 per page.

4. Certificate of public records - \$1.00;

5. Search fee \$15.00 per hour.

B. If the estimated fees authorized under this section to fill the request exceed \$100, the requester must prepay the estimated fee in advance.

C. The Township reserves the right to waive all, or any portion, of the fees for duplication of a public record when it deems it is in the public interest to do so.

IV. Appeal Procedure:

A. Authorization.

1. If a written request for access to a record is denied or deemed denied, the requester may file an appeal with the Office of Open Record or judicial, legislative or

other appeal officer designed under section 503(d) within 15 business days of the mailing date of agency's response or within 15 business days of a deemed denial. The appeal shall state the grounds upon which the requester asserts that the record is a public record, legislative record or financial record and shall address any grounds stated by the agency for delaying or denying the request.

2. Except as provided in section 503(d), in the case of an appeal of a decision by a Commonwealth agency or local agency, the Office of Open Records shall assign an appeals officer to review the denial.

B. Determination.

1. Unless the requester agrees otherwise, the appeals officer shall make a final determination which shall be mailed to the requester and the agency within 30 days of receipt of the appeal filed under subsection (a).

2. If the appeals officer fails to issue a final determination within 30 days, the appeal is deemed denied.

3. Prior to issuing a final determination, a hearing may be conducted. The determination by the appeals officer shall be a final order. The appeals officer shall provide a written explanation of the reason for the decision to the requester and the agency.

C. Direct Interest.

1. A person other than the agency or requester with a direct interest in the record subject to an appeal under this section may, within 15 days following receipt of actual knowledge of the appeal but no later than the date the appeals officer issues

an order, file a written request to provide information or to appear before the appeals officer or to file information in support of the requester's or agency's position.

2. The appeals officer may grant a request under paragraph (1) if:

(i) No hearing has been held;

(ii) The appeals officer has not yet issued its order; and

(iii) the appeals officer believes the information will be probative.

3. Copies of the written request shall be sent to the agency and the requester.

V. Effective Date:

This Resolution and the policy established shall be effective upon the date adopted.

VI. Repealed:

Resolution No. 2002-25 relating to Act 100 of 2002 is hereby repealed in its entirety.

ADOPTED this 31st day of March , 2009.

ATTEST:

Gary A. Paul
Gary A. Paul, Secretary

TOWNSHIP OF RICHLAND

By Melvyn D. Wingard
Melvyn D. Wingard, Chairman