



COMMONWEALTH OF PENNSYLVANIA  
GOVERNOR'S OFFICE OF GENERAL COUNSEL

July 26, 2024

VIA EMAIL: [REDACTED]

[REDACTED]  
Jenkintown, PA 19046

**Re: RTKL 2024-090**

Dear [REDACTED]

On June 18, 2024, the open-records officer of the Department of Community and Economic Development (the "Department") received your written request for records. The Department is responding to your request under the Pennsylvania Right-To-Know Law, 65 P.S. § 67.101 *et seq.* (the "RTKL"). A copy of your original request is attached. On June 26, 2024, the Department notified you that an additional 30 days, until July 26, 2024, would be required to respond to your request and executed a 30-day legal review.

Your request is GRANTED in part and DENIED in part. 65 P.S. §§67.706 and 67.708(b)(2) and (6)(i)(A); 26 U.S.C. §6103(a); Pa. Constit., Art. 1, § 1; *See* Office of Open Records Final Determinations and Pennsylvania caselaw referenced below.

Enclosed please find approximately one-hundred sixteen (116) pages of records deemed responsive to your request. No fee has been charged, in accordance with agency policy, as our fee waiver applies due to the records being available in electronic pdf format. Please let me know immediately if you are unable to access the records enclosed with this correspondence.

Your request is partially DENIED because the Department redacted certain data from certain portions of the responsive records in accordance with Sections 706 and 708 of the RTKL, the Federal Tax Code, and the Pa Constitution. 65 P.S. §§67.706 and 67.708(b)(2) and (6)(i)(A); 26 U.S.C. §6103(a); Pa. Constit., Art. 1, § 1; *See* Office of Open Records Final Determinations and Pennsylvania caselaw referenced below.

Per section 706 of the RTKL, if an agency determines that a public record contains information which is subject to access, as well as information which is not subject to access, the agency's response shall grant access to the information which is subject to access and deny access to the information which is not subject to access. 65 P.S. § 67.706.

Your request is partially DENIED because the Department has redacted portions of the records which jeopardize public protection activities by the relevant police force in accordance

with section 708(b)(2) of the RTKL. Section 708(b)(2) exempts from disclosure records “maintained by an agency in connection with ... law enforcement or other public safety activity that if disclosed would be reasonably likely to jeopardize or threaten public safety ... or public protection activity.” 65 P.S. § 67.708(b)(2).

The records supplied have been redacted of personal email addresses and personal phone numbers in accordance with Section 708(b)(6)(i)(A) of the RTKL, which exempts personal identification information. 65 P.S. § 67.708(b)(6)(i)(A); *See Office of the Governor v. Raffle*, 65 A.3d 1105 (Pa. Commw. Ct. 2013); *Office of Lt. Gov. v Mohn*, 67 A.3d 123 (Pa. Commw. Ct. 2013); *Murray v. Pa. Dep’t of Health*, OOR Dkt. AP 2017-0461, 2017 PA. O.O.R.D. LEXIS 1361.

Federal employer identification numbers (“FEINs”) have been redacted from the records supplied, in accordance with Section 6103(a) of the Internal Revenue Code, which prohibits the disclosure of “confidential return information” such as FEINs. See 26 U.S.C. §6103(b)(2)(A) (defining “return information” to include “a taxpayer’s identity... or any other data, received by, recorded by, prepared by, furnished to, or collected by the Secretary with respect to a return...”). *See also Hancock v. Pa. Public Util. Comm’n*, OOR Dkt. AP 2017-1496, 2017 PA O.O.R.D. LEXIS 1739; *Prison Legal News v. PA. Dep’t of Corr.*, OOR Dkt. AP 2015-0909, 2015 Pa. O.O.R.D. LEXIS 1109; *Kerns v. Pa Turnpike Comm’n*, OOR Dkt. AP 2013-0959, PA O.O.R.D. LEXIS 592 (permitting the redaction of tax identification numbers).

The records supplied have been redacted of individuals’ home addresses in accordance with the right to privacy contained in the Pennsylvania Constitution. The Pennsylvania Supreme Court held that an individual possesses a constitutional right to privacy in certain types of personal information. *See Pa. State Educ. Ass’n v. Commonwealth*, 148 A.3d 142 (Pa. 2016). When a request for records implicates personal information not expressly exempt from disclosure under the RTKL, the OOR must “balance the individual’s interest in informational privacy with the public’s interest in disclosure and may release the personal information only when the public benefit outweighs the privacy interest.” *Id.* The Pennsylvania Supreme Court recognized that “certain types of information, including home addresses, by their very nature, implicate privacy concerns and require balancing. *Id.* at 156-157; Pa. Constit., Art. 1, § 1.

You have a right to appeal this final response in writing to Liz Gerloff Wagenseller, Executive Director, Office of Open Records (OOR), 333 Market Street, 16<sup>th</sup> Floor, Harrisburg, Pennsylvania 17101. If you choose to file an appeal, you must do so within 15 business days of the mailing date of this response and send to the OOR: 1) this response; 2) your request; and 3) the reason why you think the agency is incorrect in its response. Also, the OOR has an appeal form available on the OOR website at: <https://www.openrecords.pa.gov/Appeals/AppealForm.cfm>.

If you have any questions regarding this letter, please contact me at [eiquinn@pa.gov](mailto:eiquinn@pa.gov).

Sincerely,

/s/ Eileen Quinn

Eileen Quinn

Agency Open Records Officer