

# LOWER FREDERICK TOWNSHIP

## *PUBLIC INFORMATION REQUEST POLICY* *(Pursuant to Act 3 of 2008)*

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On February 14, 2008, Governor Rendell signed into law Act 3 of 2008 (Senate Bill 1). This Act amended the Open Records Act. This Policy is being provided by the Township to help educate its Citizens with regard to these changes, and what types of documents are protected. A list of exceptions under the Act is provided at the end of this policy.

### **How do I request a copy of a public record?**

The Township has designated an official Open-Records Officer to handle such requests. The attached *Public Records Request Form* can be completed and submitted to the Open-Records Officer at the Township building either in person, by mail, by email, by facsimile, or to the extent provided by agency rules, any other electronic means.

### **What happens when my request is received by the Township?**

Upon receiving a written request for a specific document, the Township has up to five (5) business days from the date the written request is received, to determine if the request is proper and to send a response. If the request is under consideration, the Township must submit a response within five (5) days identifying as such, and providing a reasonable date that a determination and response should be expected. If the Township does not respond within five (5) days, the written request is to be deemed denied. If the Township does not send a follow-up response within thirty (30) days after it has informed the resident that its request is under consideration, then the original request is deemed denied.

### **What happens if the Township denies my request and I disagree with their determination?**

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 Records or judicial, legislative or other appeals officer designated under section 503(d) within 15 business days of the mailing date of the 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.

It is important to note that the Township does not have to create a record which does not currently exist or to compile, maintain, format or organize records in a manner in which the agency does not currently compile, maintain, format or organize the record.

It is also important to note that the Township can redact from the record any information which is not subject to access, so long as the response grants access to the information subject to the request.

### **Do I have to pay for the production of documents I request?**

Yes. The Township's fees are as follows:

Photocopying: \$ 0.25/page  
Printing: \$ 0.25/page  
CD's: \$ 2.00/CD  
Fax: \$ 0.25/page

It is important to note that the fee for postage may not exceed the actual cost of the mailing, and all duplication fees must be based on prevailing fees for comparable duplication services provided by local business entities. It is also important to note that the above-referenced fees are based on 8.5"x11" paper – if larger paper is required fees might be higher.

Other charges may apply.

The Township has the right to demand a prepayment of duplication fees if such fees are expected to exceed \$100.00.

### **What types of documents am I permitted to request?**

As a general rule, any record in the possession of the Township is presumed to be a public record and therefore allowed to be requested. However, this presumption shall not apply if:

- (i) The record is exempt under Section 708 of the Act;
- (ii) The record is protected by privilege; or
- (iii) The record is exempt from disclosure under any other Federal or State law or regulation or judicial order or decree.

Section 708 of the Act allows for the following exceptions:

- (1) A record the disclosure of which:
  - (i) would result in the loss of Federal or State funds by an agency or the Commonwealth; or
  - (ii) would be reasonably likely to result in a substantial and demonstrable risk of physical harm to or the personal security of an individual.
- (2) A record maintained by an agency in connection with the military, homeland security, national defense, law enforcement or other public safety activity that if disclosed would be reasonably likely to jeopardize or threaten public safety or preparedness or public protection activity or a record that is designated classified by an appropriate Federal or State military authority.
- (3) A record, the disclosure of which creates a reasonable likelihood of endangering the safety or the physical security of a building, public utility, resource, infrastructure, facility or information storage system, which may include:
  - (i) documents or data relating to computer hardware, source files, software and system networks that could jeopardize computer security by exposing a vulnerability in preventing, protecting against, mitigating or responding to a terrorist act;

- employees or officials of another agency, including predecisional deliberations relating to a budget recommendation, legislative proposal, legislative amendment, contemplated or proposed policy or course of action or any research, memos or other documents used in the predecisional deliberations.
- (B) The strategy to be used to develop or achieve the successful adoption of a budget, legislative proposal or regulation.
- (ii) Subparagraph (i)(A) shall apply to agencies subject to 65 Pa.C.S. Ch. 7 (relating to open meetings) in a manner consistent with 65 Pa.C.S. Ch. 7. A record which is not otherwise exempt from access under this act and which is presented to a quorum for deliberation in accordance with 65 Pa.C.S. Ch. 7 shall be a public record.
- (iii) This paragraph shall not apply to a written or Internet application or other document that has been submitted to request Commonwealth funds.
- (iv) This paragraph shall not apply to the results of public opinion surveys, polls, focus groups, marketing research or similar effort designed to measure public opinion.
- (11) A record that constitutes or reveals a trade secret or confidential proprietary information.
- (12) Notes and working papers prepared by or for a public official or agency employee used solely for that official's or employee's own personal use, including telephone message slips, routing slips and other materials that do not have an official purpose.
- (13) Records that would disclose the identity of an individual who lawfully makes a donation to an agency unless the donation is intended for or restricted to providing remuneration or personal tangible benefit to a named public official or employee of the agency, including lists of potential donors compiled by an agency to pursue donations, donor profile information or personal identifying information relating to a donor.
- (14) Unpublished lecture notes, unpublished manuscripts, unpublished articles, creative works in progress, research-related material and scholarly correspondence of a community college or an institution of the State System of Higher Education or a faculty member, staff employee, guest speaker or student thereof.
- (15)
- (i) Academic transcripts
- (ii) Examinations, examination questions, scoring keys or answers to examinations. This subparagraph shall include licensing and other examinations relating to the qualifications of an individual and to examinations given in primary and secondary schools and institutions of higher education.
- (16) A record of an agency relating to or resulting in a criminal investigation, including:
- (i) Complaints of potential criminal conduct other than a private criminal complaint.
- (ii) Investigative materials, notes, correspondence, videos and reports.
- (iii) A record that includes the identity of a confidential source or the identity of a suspect who has not been charged with an offense to whom confidentiality has been promised.
- (iv) A record that includes information made confidential by law or court order.
- (v) Victim information, including any information that would jeopardize the safety of the victim.
- (vi) A record that, if disclosed, would do any of the following:
- (A) Reveal the institution, progress or result of a criminal investigation, except the filing of criminal charges.
- (B) Deprive a person of the right to a fair trial or an impartial adjudication.
- (C) Impair the ability to locate a defendant or codefendant.
- (D) Hinder an agency's ability to secure an arrest, prosecution or conviction.
- (E) Endanger the life or physical safety of an individual.
- This paragraph shall not apply to information contained in a police blotter as defined in 18 Pa.C.S. § 9102 (relating to definitions) and utilized or maintained by the Pennsylvania State Police, local, campus, transit or port authority police department or other law enforcement agency or in a traffic report except as provided under 75 Pa.C.S. § 3754(b) (relating to accident prevention investigations).
- (17) A record of an agency relating to a noncriminal investigation, including:
- (i) Complaints submitted to an agency.
- (ii) Investigative materials, notes, correspondence and reports.
- (iii) A record that includes the identity of a confidential source, including individuals subject to the act of December 12, 1986 (P.L. 1559, No. 169), known as the Whistleblower Law.
- (iv) A record that includes information made confidential by law.
- (v) Work papers underlying an audit.
- (vi) A record that, if disclosed, would do any of the following:

- (A) Reveal the institution, progress or result of an agency investigation, except the imposition of a fine or civil penalty, the suspension, modification or revocation of a license, permit, registration, certification or similar authorization issued by an agency or an executed settlement agreement unless the agreement is determined to be confidential by a court.
  - (B) Deprive a person of the right to an impartial adjudication.
  - (C) Constitute an unwarranted invasion of privacy.
  - (D) Hinder an agency's ability to secure an administrative or civil sanction.
  - (E) Endanger the life or physical safety of an individual.
- (18)
- (i) Records or parts of records, except time response logs, pertaining to audio recordings, telephone or radio transmissions received by emergency dispatch personnel, including 911 recordings.
  - (ii) This paragraph shall not apply to a 911 recording, or a transcript of a 911 recording, if the agency or a court determines that the public interest in disclosure outweighs the interest in nondisclosure.
- (19) DNA and RNA records.
- (20) An autopsy record of a coroner or medical examiner and any audiotape of a postmortem examination or autopsy, or a copy, reproduction or facsimile of an autopsy report, a photograph, negative or print, including a photograph or videotape of the body or any portion of the body of a deceased person at the scene of death or in the course of a postmortem examination or autopsy taken or made by or caused to be taken or made by the coroner or medical examiner. This exception shall not limit the reporting of the name of the deceased individual and the cause and manner of death.
- (21)
- (i) Draft minutes of any meeting of an agency until the next regularly scheduled meeting of the agency.
  - (ii) Minutes of an executive session and any record of discussions held in executive session.
- (22)
- (i) The contents of real estate appraisals, engineering or feasibility estimates, environmental reviews, audits or evaluations made for or by an agency relative to the following:
    - (A) The leasing, acquiring or disposing of real property or an interest in real property.
    - (B) The purchase of public supplies or equipment included in the real estate transaction.
    - (C) Construction projects.
  - (ii) This paragraph shall not apply once the decision is made to proceed with the lease, acquisition or disposal of real property or an interest in real property or the purchase of public supply or construction project.
- (23) Library and archive circulation and order records of an identifiable individual or groups of individuals.
- (24) Library archived and museum materials, or valuable or rare book collections or documents contributed by gift, grant, bequest or devise, to the extent of any limitations imposed by the donor as a condition of the contribution.
- (25) A record identifying the location of an archeological site or an endangered or threatened plant or animal species if not already known to the general public.
- (26) A proposal pertaining to agency procurement or disposal of supplies, services or construction prior to the award of the contract or prior to the opening and rejection of all bids; financial information of a bidder or offeror requested in an invitation for bid or request for proposals to demonstrate the bidder's or offeror's economic capability; or the identity of members, notes and other records of agency proposal evaluation committees established under 62 Pa.C.S. § 513 (relating to competitive sealed proposals).
- (27) A record or information relating to a communication between an agency and its insurance carrier, administrative service organization or risk management office. This paragraph shall not apply to a contract with an insurance carrier, administrative service organization or risk management office or to financial records relating to the provision of insurance.
- (28) A record or information:
- (i) identifying an individual who applies for or receives social services; or
  - (ii) relating to the following:
    - (A) the type of social services received by an individual;

- (B) an individual's application to receive social services, including a record or information related to an agency decision to grant, deny, reduce or restrict benefits, including a quasi-judicial decision of the agency and the identity of a caregiver or others who provide services to the individual; or
- (C) eligibility to receive social services, including the individual's income, assets, physical or mental health, age, disability, family circumstances or record of abuse.

(29) Correspondence between a person and a member of the General Assembly and records accompanying the correspondence which would identify a person that requests assistance or constituent services. This paragraph shall not apply to correspondence between a member of the General Assembly and a principal or lobbyist under 65 Pa.C.S. Ch. 13A (relating to lobbyist disclosure).

(30) A record identifying the name, home address or date of birth of a child 17 years of age or younger.