

March 7, 2019

Via Email Only:

Ms. Michelle Grove
PO Box 253
Spring Mills, PA 16875
rtk@michellegrove.com

Via Email Only:

Pamela Hackenburg
Agency Open Records Officer
Gregg Township
106 School Street
PO Box 184
Spring Mills, PA 16875
secretary@greggtownship.org

RE: OFFICIAL NOTICE OF APPEAL-DOCKET #AP 2019-0317

Dear Parties:

Please review this information carefully as it affects your legal rights.

The Office of Open Records ("OOR") received this appeal under the Right-to-Know Law ("RTKL"), 65 P.S. §§ 67.101, *et seq.* on **March 6, 2019**. This letter describes the appeal process. A binding Final Determination will be issued pursuant to the timeline required by the RTKL. In most cases, that means within 30 calendar days. The OOR's Final Determination is currently due on **April 5, 2019**.

OOR Mediation: This is a voluntary, informal process to help parties reach a mutually agreeable settlement on records disputes before the OOR. To participate in mediation, both parties must agree in writing. The Parties agreement to mediate stays the Final Determination Deadline. If mediation is unsuccessful, both parties will be able to make submissions to the OOR, and the OOR will have 30 calendar days from the conclusion of the mediation process to issue a Final Determination, unless the Requester agreed to an additional 30 calendar day extension on the appeal form.

Note to Parties: Statements of fact **must** be supported by an affidavit or attestation made under penalty of perjury by a person with actual knowledge. Any factual statements or allegations submitted without an affidavit will not be considered. The agency has the burden of proving that records are exempt from public access (*see* 65 P.S. § 67.708(a)(1)). **To meet this burden, the agency must provide evidence to the OOR.** The law requires the agency's position to be supported by sufficient facts *and* citation to all relevant sections of the RTKL, case law and OOR Final Determinations. An affidavit or attestation is required to show that records do not exist. Blank sample affidavits are available on the OOR's website.

Submissions to OOR: Both parties may submit information and legal argument to support their positions by **11:59:59 p.m. on March 18, 2019**. The record closing date is seven (7) business days from the date of this letter unless the proceedings have been stayed for the

parties to submit a completed mediation agreement form, then the record will remain open for seven (7) additional business days beyond the mediation agreement submission deadline. *Submissions sent via postal mail and received after 5:00 p.m. will be treated as having been received the next business day.* The agency may assert exemptions on appeal even if it did not assert them when the request was denied (*Levy v. Senate of Pa.*, 65 A.3d 361 (Pa. 2013)).

Include the above docket number on all submissions related to this appeal. Also, any information you provide to the OOR must be provided to all parties involved in this appeal. Information shared with the OOR that is not also shared with all parties will not be considered.

Agency Must Notify Third Parties: If records affect a legal or security interest of an employee of the agency; contain confidential, proprietary or trademarked records of a person or business entity; or are held by a contractor or vendor, **the agency must notify such parties of this appeal immediately and provide proof of that notice by the record closing date set forth above.** Such notice must be made by (1) providing a copy of all documents included with this letter; and (2) advising that interested persons may request to participate in this appeal (*see* 65 P.S. § 67.1101(c)).

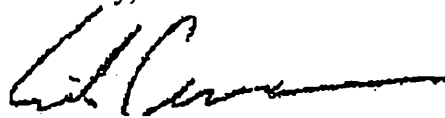
Commonwealth Court has held that “the burden [is] on third-party contractors ... to prove by a preponderance of the evidence that the [requested] records are exempt.” (*Allegheny County Dep’t of Admin. Servs. v. A Second Chance, Inc.*, 13 A.3d 1025, 1042 (Pa. Commw. Ct. 2011)). **Failure of a third-party contractor to participate in an appeal before the OOR may be construed as a waiver of objections regarding release of the requested records.**

Law Enforcement Records of Local Agencies: District Attorneys must appoint Appeals Officers to hear appeals regarding criminal investigative records in the possession of a local law enforcement agency. If access to records was denied in part on that basis, the Requester should consider filing a concurrent appeal with the District Attorney of the relevant county.

Public Record Notice: All dockets, filings and OOR orders and opinions in this appeal will be public records and subject to public access with limited exception. The OOR’s Final Determination will generally include a summary of the case including the identity of the parties and the relevant factual background. Final Determinations are available on the OOR’s website and searchable on-line.

If you have general questions about the appeal process, please contact the OOR at (717) 346-9903. If you have questions specific to your appeal, please email the assigned Appeals Officer (contact information is enclosed) - and be sure to provide a copy of any correspondence to all other parties involved in this appeal.

Sincerely,



Erik Arneson
Executive Director

Enc.: Assigned Appeals Officer contact information
Entire appeal as filed with OOR



pennsylvania

OFFICE OF OPEN RECORDS

APPEALS OFFICER:

Erin Burlew, Esq.

CONTACT INFORMATION:

Commonwealth of Pennsylvania
Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234

FACSIMILE:

(717) 425-5343

EMAIL:

eburlew@pa.gov

**Preferred method of contact and
submission of information:**

EMAIL

Please direct submissions and correspondence related to this appeal to the above Appeals Officer. Please include the case name and docket number on all submissions.

You must copy the other party on everything you submit to the OOR. The Appeals Officer cannot speak to parties individually without the participation of the other party.

The OOR website, <https://openrecords.pa.gov>, is searchable and both parties are encouraged to review prior final determinations involving similar records and fees that may impact this appeal.

The OOR website also provides sample forms that may be helpful during the appeals process. OOR staff are also available to provide general information about the appeals process by calling (717) 346-9903.

REQUEST TO PARTICIPATE BEFORE THE OOR

Please accept this as a Request to Participate in a currently pending appeal before the Office of Open Records. The statements made herein and in any attachments are true and correct to the best of my knowledge, information and belief. I understand this statement is made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsifications to authorities.

NOTE: The requester filing the appeal with the OOR is a named party in the proceeding and is NOT required to complete this form.

OOR Docket No: _____

Today's date: _____

Name: _____

PUBLIC RECORD NOTICE: ALL FILINGS WITH THE OOR WILL BE PUBLIC RECORDS AND SUBJECT TO PUBLIC ACCESS WITH LIMITED EXCEPTION. IF YOU DO NOT WANT TO INCLUDE PERSONAL CONTACT INFORMATION IN A PUBLICLY ACCESSIBLE RECORD, PLEASE PROVIDE ALTERNATE CONTACT INFORMATION IN ORDER TO RECEIVE FUTURE CORRESPONDENCE RELATED TO THIS APPEAL.

Address/City/State/Zip _____

E-mail _____

Fax Number: _____

Name of Requester: _____

Address/City/State/Zip _____

Telephone/Fax Number: _____ / _____

E-mail _____

Name of Agency: _____

Address/City/State/Zip _____

Telephone/Fax Number: _____ / _____

E-mail _____

Record at issue: _____

I have a direct interest in the record(s) at issue as (check all that apply):

- ☐ An employee of the agency
- ☐ The owner of a record containing confidential or proprietary information or trademarked records
- ☐ A contractor or vendor
- ☐ Other: (attach additional pages if necessary) _____

I have attached a copy of all evidence and arguments I wish to submit in support of my position.

Respectfully submitted, _____ (must be signed)

Please submit this form to the Appeals Officer assigned to the appeal. Remember to copy all parties on this correspondence. The Office of Open Records will not consider direct interest filings submitted after a Final Determination has been issued in the appeal.

Sostar, Janelle K

From: no-reply@openrecords.pa.gov
Sent: Wednesday, March 6, 2019 5:14 PM
To: rtk@michellegrove.com
Subject: PA Office of Open Records - Appeal Confirmation



pennsylvania
OFFICE OF OPEN RECORDS

You have filed an appeal of an agency's response to a request for records under the Right-to-Know Law.

Name: Michelle Grove

Address 1: PO Box 253

Address 2:

City: Spring Mills

State: Pennsylvania

Zip: 16875

Phone: 814-470-1132

Fax:

Email: rtk@michellegrove.com

Agency (list): Gregg Township

Agency Address 1: 106 School Street

Agency Address 2: PO Box 184

Agency City: Spring Mills

Agency State: Pennsylvania

Agency Zip: 16875

Agency Phone: 814-422-8218

Agency Fax: 814-422-8080

Agency Email: secretary@greggtownship.org

Records Requested: Security footage of Jennifer Snyder and Doug Bierly entering and exiting office for beginning of shifts, ending of shifts, and lunch breaks - from the same two cameras

RECEIVED

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OFFICE OF OPEN RECORDS

that were previously granted. Preserve date & time stamp. 4/13/18-4/26/18, 6/22/18-07/05/18, 7/20/18-08/01/18

Request Submitted to Agency Via:	e-mail
Request Date:	01/11/2019
Response Date:	02/19/2019
Deemed Denied:	No
Agency Open Records Officer:	Pamela Hackenburg, AORO
Additional Reasons for Appeal:	The township is denying all requests for footage despite the ruling of the Commonwealth Court. The township is delaying responses in bad faith. In this case, the township did not send their final response in time, therefore it is deemed denial anyway.
Attached a copy of my request for records:	Yes
Attached a copy of all responses from the Agency regarding my request:	Yes
Attached any letters or notices extending the Agency's time to respond to my request:	Yes
Agree to permit the OOR an additional 30 days to issue a final order:	No
Interested in resolving this issue through OOR mediation:	No
Attachments:	<ul style="list-style-type: none">• Request.pdf• Extension.pdf• Response.pdf

I requested the listed records from the Agency named above. By submitting this form, I am appealing the Agency's denial, partial denial, or deemed denial because the requested records are public records in the possession, custody or control of the Agency; the records do not qualify for any exemptions under § 708 of the RTKL, are not protected by a privilege, and are not exempt under any Federal or State law or regulation; and the request was sufficiently specific.



pennsylvania

OFFICE OF OPEN RECORDS

Right-To-Know Response Form

Gregg Township, Centre County
secretary@greggtownship.org
814-422-8218

February 19, 2019

Dear Requestor:

This letter acknowledges that your request for access to public records under the Pennsylvania Right-to-Know Law, as set forth in your Standard Right-to-Know Request Form dated January 11, 2019, is hereby denied. You requested the following information:

Security footage of Jennifer Snyder and Douglas Bierly entering and exiting office for beginning of shifts, ending of shifts, and lunch breaks – from the same two cameras that were previously granted. Preserve date & time stamp.

4/13/18 – 4/26/18, 6/22/18 – 7/05/18, 7/20/18 – 08/01/18

This request is denied. First, 65 P.S. § 67.708(b)(2) allows a local agency to withhold the following information:

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.

Second, 65 P.S. § 67.708(b)(3) allows a local agency to withhold “[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.”

Third, 65 P.S. § 67.708(b)(11) allows a local agency to withhold “[a] record that constitutes or reveals a trade secret or confidential proprietary information.”

Fourth, 65 P.S. § 67.506(a) allows a local agency to withhold records that have been sought on prior occasions and which place an unreasonable burden on the agency.

Disclosing the requested information would violate the foregoing provisions. For these reasons, your request is denied.

You have a right to appeal this denial of information in writing to Erik Arneson, Executive Director, Office of Open Records, Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, Pennsylvania, 17120.

If you choose to file an appeal, you must do so within fifteen business days of the mailing due date of the agency's response, as outlined in 65 P.S. § 67.1101. Please note that a copy of your original Right-to-Know request and this denial letter must be included when filing an appeal. The law also requires that you state the reasons why the record is a public record and address each of the reasons the Authority denies your request. Visit the Office of Open Records website at <http://openrecords.state.pa.us> for further information on filing an appeal. If you have further questions, please call me at the contact information provided above. Please be advised that this correspondence will serve to close this record with our office as permitted by law.

Respectfully,

Pamela Hackenburg

Pamela Hackenburg, Secretary/Treasurer, CGA
Gregg Township, Centre County
Right to Know Officer



GREGG TOWNSHIP
CENTRE COUNTY
106 School Street
PO BOX 184
Spring Mills PA 16875
814-422-8218
www.greggtownship.org

January 18, 2019

Michelle Grove
P.O. Box 253
Spring Mills, PA 16875
rtk@michellegrove.com

Dear Requestor:

This letter acknowledges receipt of your request for access to public records under the Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101, as set forth in your Standard Right-to-Know Law Request Form received January 14, 2019, which sought the following information:

Security footage of Jennifer Snyder and Doug Bierly entering and exiting office for beginning of shifts, ending of shifts and lunch breaks – from the same two cameras that were previously granted. Preserve date & time stamp.

4/13/18 – 4/26/18, 6/22/18 – 7/05/18, 7/20/18 – 8/01/18.

Your request for access is being reviewed, and an extension of time to respond is necessary due to the reason noted below: (1) the request for access potentially requires redaction of a record in accordance with Section 706, (2) a timely response to the request for access cannot be accomplished due to bona fide and specified staffing limitations, (3) a legal review is necessary to determine whether the record is a record subject to access, and (4) the extent or nature of the request precludes a response within the required time period.

I expect to respond to your request within thirty days from the date of this letter. If access is granted, the fees owed will be:

Copy fee: \$ 0.25 per page

Certification fee: \$ 0.00

Postage fee: Cost of postage

Other fees: As allowed

I will set forth the actual fees cost in the letter granting access, and said costs shall be paid at or prior to my release of the record.

Sincerely,

A handwritten signature in cursive script that reads "Pamela Hackenburg".

Pamela Hackenburg
Secretary/Treasurer, Centre County
Right to Know Officer

Douglas P. Bierly

BOARD OF SUPERVISORS
Keri B. Miller

Charles W. Stover



pennsylvania
OFFICE OF OPEN RECORDS

Standard Right-to-Know Law Request Form

Good communication is vital in the RTKL process. Complete this form thoroughly and retain a copy; it is required should an appeal be necessary. You have 15 business days to appeal after a request is denied or deemed denied.

SUBMITTED TO AGENCY NAME: Gregg Township (Attn: AORO)

Date of Request: 1/11/2019 Submitted via: ☒ Email ☐ U.S. Mail ☐ Fax ☐ In Person

PERSON MAKING REQUEST:

Name: Michelle Grove Company (if applicable): _____

Mailing Address: PO Box 253

City: Spring Mills State: PA Zip: 16875 Email: rtk@michellegrove.com

Telephone: 814-470-1132 Fax: _____

How do you prefer to be contacted if the agency has questions? ☐ Telephone ☐ Email ☐ U.S. Mail

RECORDS REQUESTED: *Be clear and concise. Provide as much specific detail as possible, ideally including subject matter, time frame, and type of record or party names. Use additional sheets if necessary. RTKL requests should seek records, not ask questions. Requesters are not required to explain why the records are sought or the intended use of the records unless otherwise required by law.*

Security footage of Jennifer Snyder and Doug Bierly entering and exiting office for beginning of shifts, ending of shifts, and lunch breaks - from the same two cameras that were previously granted. Preserve date & time stamp.

4/13/18-4/26/18, 6/22/18-07/05/18, 7/20/18-08/01/18

DO YOU WANT COPIES? ☒ Yes, electronic copies preferred if available

☐ Yes, printed copies preferred

☐ No, in-person inspection of records preferred (*may request copies later*)

Do you want certified copies? ☐ Yes (*may be subject to additional costs*) ☒ No

RTKL requests may require payment or prepayment of fees. See the Official RTKL Fee Schedule for more details.

Please notify me if fees associated with this request will be more than ☐ \$100 (or) ☐ \$_____.

ITEMS BELOW THIS LINE FOR AGENCY USE ONLY

Tracking: _____ Date Received: _____ Response Due (5 bus. days): _____

30-Day Ext.? ☐ Yes ☐ No (If Yes, Final Due Date: _____) Actual Response Date: _____

Request was: ☐ Granted ☐ Partially Granted & Denied ☐ Denied Cost to Requester: \$_____

☐ Appropriate third parties notified and given an opportunity to object to the release of requested records.

NOTE: In most cases, a completed RTKL request form is a public record.
More information about the RTKL is available at <https://www.openrecords.pa.gov>

Form updated Nov. 27, 2018