

TOWNSHIP OF SILVER SPRING
BOARD OF SUPERVISORS

Resolution 2010-13

A RESOLUTION OF THE BOARD OF SUPERVISORS OF
THE TOWNSHIP OF SILVER SPRING ESTABLISHING A
RIGHT-TO-KNOW POLICY FOR MUNICIPAL PUBLIC RECORDS

I. Introduction

The Township of Silver Spring (the "Township") is a body corporate and politic, duly organized and existing under the Second Class Township Code, 53 P.S. §65101, *et seq.*, as amended. As such, the Township is a local agency for purposes of the new Right-to-Know Law.

All local agencies shall provide public records in accordance with the Right-to-Know Law. Therefore, any record in the possession of the Township shall be presumed to be a public record, except in the following circumstances:

- a. The record is exempt under the Right-to-Know Law;
- b. The record is protected by the attorney-work product doctrine, the attorney-client privilege or other privilege recognized by a court interpreting the laws of the Commonwealth of Pennsylvania; or
- c. The record is exempt from disclosure under any other federal or state law or regulation, or judicial order or decree.

Records are broadly defined under the Right-to-Know Law. 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.

Requests for public records can be made by any person who is a legal resident of the United States, including resident aliens. Requests to the Township can also be made by other local agencies, Commonwealth agencies (e.g., The Department of the Auditor General or the Treasury Department), judicial agencies (i.e., the courts), or legislative agencies (e.g., the Senate and House of Representatives).

II. Access and Procedure

Requesters may make oral requests for access to records. If, however, the requester wishes to pursue the relief and remedies provided in the Right-to-Know Law, the request for access to records must be a written request.

The Township has designated Terri A. Martini, Acting Township Manager, to act as the Open Records Officer (the "Officer") for all general Township administrative records. The Officer's contact information is set forth below:

Terri A. Martini, Acting Township Manager
Silver Spring Township
6475 Carlisle Pike
Mechanicsburg, PA 17050

Telephone: (717) 766-0178
Facsimile: (717) 766-1696
Email: tamartini@silverspringtwp-pa.gov

The Township has designated Richard E. Hammon, Superintendent of Police, to act as the Open Records Officer (the "Officer") for all Township police records. The Officer's contact information is set forth below:

Richard E. Hammon, Superintendent of Police
Silver Spring Township
6475 Carlisle Pike
Mechanicsburg, PA 17050

Telephone: (717) 697-0607
Facsimile: (717) 766-5984
Email: rehammon@silverspringtwp-pa.gov

Questions regarding this policy may be directed to Richard E. Hammon, Superintendent of Police, at the telephone or email address listed above.

All written requests must be addressed to the Officer, and all such requests must be submitted in person, by mail, facsimile, or electronic mail. In the event that a written request for records is addressed to a Township employee other than the Officer, the Township employee is hereby directed to promptly forward such requests to the Officer.

Written requests must identify or describe the record with sufficient specificity to enable the Township to ascertain which records are being requested. Unless otherwise required by law, a written request need not include an explanation of the requester's reason for requesting the records or the intended use of such records. A form which may be used to file a request is posted at the Township Municipal Building, 6475 Carlisle Pike, Mechanicsburg, PA 17050 and on the Township's internet web site at www.silverspringtwp-pa.gov. The Township shall assign a tracking number to each filed form so as to track the Township's progress in responding to requests under the new Right-to-Know Law.

Prior to granting a request for access in accordance with the Right-to-Know Law, the Township may require the requester to prepay an estimate of the fees authorized by law if the fees required to fulfill the request are expected to exceed \$100.00. The fees shall be established by the Commonwealth Office of Open Records and must be reasonable and based on prevailing fees for comparable duplication services provided by local business entities. Except as otherwise provided by statute, no other fees may be imposed unless the Township necessarily incurs the costs for complying with the request, and such fees must be reasonable. A schedule of fees shall be adopted by the Township by separate resolution.

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. In other words, the Township shall not be required to create a record which does not currently exist or to otherwise compile, maintain, format or organize a record in a manner in which it does not currently compile, maintain, format or organize such record.

Upon receipt of a written request for a public record, the Officer shall do the following:

- a. Note the date of receipt on the written request;
- b. Compute the day on which the five-day period (see discussion of Response, below) will expire, and make a notation of that date on the written request;
- c. Maintain an electronic copy or paper copy of the 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 thirty (30) days or, if an appeal is filed, until a final determination is issued or the appeal is deemed denied.
- d. Create a file for the retention of the original request, a copy of the response, a record of the written communications with the requester, and a copy of other communications.

III. Township's Response

Upon receipt of a written request for access to a record, the Township shall make a good faith effort to determine if the record requested is a public record and whether the Township has possession, custody, or control of the identified record. When doing so, the Township will respond as promptly as possible under the circumstances existing at the time of the request. Under the Right-to-Know Law, the Township must send a response within five (5) business days of receipt of the written request for access, or else the written request shall be deemed denied. For purposes of this policy, a business day is any Monday, Tuesday, Wednesday, Thursday, or Friday, except those days when the Township's office is closed for all or part of a day due to a holiday.

Upon receipt of a written request for access, the Officer shall determine if one of the following applies:

- a. The request for access requires redaction of a record in accordance with the Right-to-Know Law;
- b. The request for access requires the retrieval of a record stored in a remote location;
- c. A timely response to the request for access cannot be accomplished due to bona fide and specified staffing limitations;
- d. A legal review is necessary to determine whether the record is a record subject to access under the Right-to-Know Law;
- e. The requester has not complied with the Township's policies regarding access to records;
- f. The requester refuses to pay applicable fees authorized by the Right-to-Know Law; or
- g. The extent of nature of the request precludes a response within the required time period of five (5) business days.

Upon a determination that one of the factors listed above applies, the Officer shall send written notice to the requester within five (5) business days of receipt of the request for access. 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. Information which the Township redacts in accordance with the Right-to-Know Law shall be deemed a denial.

If the date that a response is expected to be provided is in excess of thirty (30) days following the five (5) business days allowed above, 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. 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 Township has not provided a response on or before that date.

For purposes of this policy, the "mailing date" shall be the date affixed to a: (1) response from the Officer to a request, which is to be the date the response is deposited in the U.S. mail; or (2) final determination from the Officer, which is to be the date the final determination is deposited in the U.S. mail.

If the Township'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:

- a. A description of the record requested;
- b. The specific reasons for the denial, including a citation of supporting legal authority;
- c. 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;
- d. Date of the response; and
- e. The procedure to appeal the denial of access under the Right-to-Know Law.

IV. Appeal of Township's Determination

If a written request for access to a record is denied or deemed denied, the requester may file an appeal with the Commonwealth of Pennsylvania, Office of Open Records for all requests for access, except requests for access to criminal investigative records, which appeals must be filed with the Office of the District Attorney of Cumberland County. An appeal must be filed within fifteen (15) business days of the mailing date of the Township's response or within fifteen (15) business days of the deemed denial. The appeal shall state the grounds upon which the requester asserts that the record is a public record, and shall address any grounds stated by the Township for delaying or denying the request.

The Office of Open Records has established an internet website with information relating to the Right-to-Know Law, including information on fees, advisory opinions and decisions, plus the names and addresses of all Open Records Officers in the Commonwealth of Pennsylvania. For information on the Office of Open Records, please go to the website at <http://openrecords.state.pa.us>. (Please note: among other matters, the Office of Open Records shall establish fees for duplication by photocopying, printing from electronic media or microfilm, copying onto electronic media and other means of duplication.)

V. Retention of Records

By adoption of Resolution 2010-13 the Township publicly declared its intention to follow the Municipal Records Act, 53 Pa.C.S.A. §1381 *et seq.*, with respect to the retention and disposition of public records. Nothing in the Right-to-Know Law shall be construed to modify, rescind, or supersede the Township's lawfully adopted record retention and disposition policy. Moreover, nothing in the Right-to-Know Law shall be construed to require access to any computer of the Township or that of an individual employee of the Township.

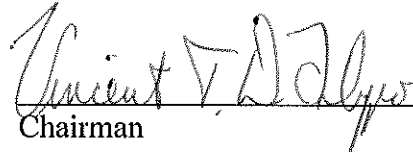
NOW THEREFORE, BE IT RESOLVED AND IT IS HEREBY RESOLVED by the Board of Supervisors of the Township of Silver Spring that Resolution 2010-13 is hereby adopted as the Right-to-Know Policy of the Township of Silver Spring. DULY ADOPTED as Resolution 2010-13, this 26th day of May.

ATTEST:

SILVER SPRING TOWNSHIP
BOARD OF SUPERVISORS



Township Secretary Assistant



Chairman