

**WEST VINCENT TOWNSHIP  
CHESTER COUNTY, PENNSYLVANIA  
RESOLUTION NO 8-2009**

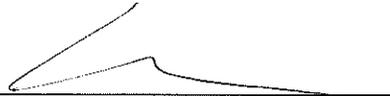
WHEREAS, the Pennsylvania Open Records Act was amended in 2008, with those amendments having an effective date of January 1, 2009, and

WHEREAS, the Open Records Act permits municipalities to establish a policy for the processing of Open Records requests submitted to the municipality, and

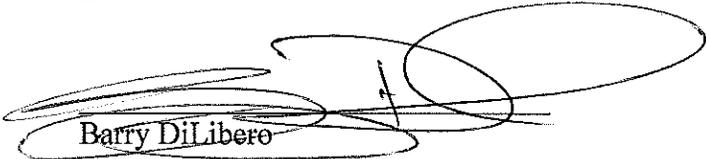
WHEREAS, the Township recognizes the importance of public records as the record of the Township's actions and the repository of information about the Township, and, recognizing that the public has the right to inspect, access and procure copies of public records in the Township's possession, the Township desires to set forth the procedures by which the Township Open Records Officer will consider requests for public records.

NOW, THEREFORE, be it resolved and it is hereby resolved by the Board of Supervisors of West Vincent Township, Chester County, Pennsylvania this 5th day of January 2009 that the West Vincent Township Open Records Act Policy Relating to Township Public Records, attached hereto as Exhibit A, is hereby adopted and shall govern all requests for public records submitted to West Vincent Township.

WEST VINCENT TOWNSHIP BOARD OF SUPERVISORS

  
\_\_\_\_\_  
Kenneth I. Miller, Jr. Chairman

  
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Zoë Perkins Vice-Chairman

  
\_\_\_\_\_  
Barry DiLibero

**WEST VINCENT TOWNSHIP OPEN RECORDS ACT POLICY  
RELATING TO TOWNSHIP PUBLIC RECORDS**

1. **Purpose**

The Township recognizes the importance of public records as the record of the Township's actions and the repository of information about the Township. The public has the right to inspect, access and procure copies of public records in the Township's possession, with certain exceptions, subject to law. It shall be the purpose of the instant Open Records Act Policy to set forth the procedures by which the Township will consider requests for public records.

2. **Authority**

In accordance with the Pennsylvania Right to Know Law and subject to any exemptions provided therein, the Township shall make its public records available for access and duplication to any individual who submits a request in writing on the application form provided by the Township, together with all applicable fees. The Township shall also have the discretion to fill verbal or anonymous requests for access or copies of public records, subject to the requestor paying all applicable fees therefor.

3. **Delegation of Responsibility to Open Records Officer**

The Board shall annually designate an Open Records Officer, who shall be responsible to:

- a. Receive written requests for access to records submitted to the Township;
- b. Review and respond to written requests in accordance with the Right to Know Law, Township policies and regulations;
- c. Direct requests to other appropriate individuals within the Township;
- d. Track the Township's progress in responding to requests;
- e. Issue interim and final responses to submitted requests; and
- f. Maintain a log of all record requests and their disposition for each calendar year.

4. **Procedural Requirements for Public Document Requests**

a. **Request For Access.**

A written request for access to or duplication of a public record shall be submitted on the required form(s) and addressed to the Township's Open Records Officer. Written requests may be submitted to the Township in person, by mail, by email, or to a designated facsimile machine. Written requests that are received by the Open Records Officer after the regular business hours for the Township shall be deemed to have been received on the following business day.

Each request must include the following information:

1. Identification or description of the requested record, in sufficient detail.
2. The medium in which the record is requested.
3. Name and address of the individual to receive the Township's response.

**b. Receipt of Request.**

Upon receiving a request for access to a record, the Open Records Officer shall immediately:

1. Note the date of receipt on the written request.
2. Compute and note on the written request the day on which the five (5) day period for response will expire.
3. Note the receipt of the written request on the Township's RTK Log.
4. Supply a copy of the written request to the Township Solicitor, and, if applicable, to the appropriate chairperson of the Township committee, board, office or officer which may be in possession of the requested materials.

**c. Retention of Requests.**

The Open Records Officer shall maintain an electronic or paper copy of the written request, including all documents submitted with the request, until the request has been fulfilled. If the written request is denied, maintain the written request for thirty-one (31) days or, if an appeal is filed, until a final determination is issued or the appeal is deemed denied.

**d. General Guidelines.**

1. Requesters may access and procure copies of the public records of the Township during the regular business hours of the Township offices.
2. A requester's right of access does not include the right to remove a record from the control or supervision of the Open Records Officer. The Open Records Officer may require that the requester be supervised in his/her review of any public records. However, a requestor may request a photocopy of such public records at cost as provided herein. In the event that such copying costs are estimated to exceed \$100, then the requestor shall be required to pre-pay the estimated cost for copying.
3. The Township shall not limit the number of records requested. However, pursuant to the Right to Know Law, the Township may deny a requester access to a record if the requester has made repeated requests for that same

record and the repeated requests have placed an unreasonable burden on the Township.

4. When responding to a request for access, the Township is not required to create a record that does not exist nor to compile, maintain, format or organize a record in a manner which the Township does not currently use.
5. Information shall be made available to individuals with disabilities in an appropriate format, upon request and with sufficient advance notice.
6. The Township shall post at the administration office and on the Township's web site, to the extent that the Township maintains a web site, the following information:
  - a) Contact information for the Open Records Officer (including name, address, business phone number, facsimile number, and email).
  - b) Contact information for the state's Office of Open Records or other applicable appeals officer.
  - c) The form to be used to file a request.
  - d) Township policy, administrative regulations and procedures governing requests for access to the Township's public records.
7. The Township shall not require an explanation of the reason for the request or the intended use of the requested record, unless otherwise required by law.
8. A public record shall be provided to the requester in the medium requested if it exists in that form. Otherwise, the public record shall be provided in its existing medium. However, the Township is not required to permit use of its computers in order to access any public record.
9. If the Open Records Officer responds to a requester that a copy of the requested record is available for delivery at the Township office and the requester does not retrieve the record within sixty (60) days of the Township's response, the Township shall dispose of the copy and retain any fees paid to date.

**e. Fees.**

The Board may approve a list of reasonable fees relative to requests for public records pursuant to the duplication fee schedule established by the State Office of Open Records. The Township shall maintain a list of applicable fees and disseminate the list to requesters upon request. No fee will be imposed for review of a record to determine whether the record is subject to access under law. As noted above, prior to granting access, the Township may require prepayment of estimated fees when the fees required to fulfill the request are expected to exceed

\$100. Upon request, the Board of Supervisors may waive duplication fees when the requester duplicates the record or the Board of Supervisors deems it is in the public interest to do so.

**5. Guidelines for Responses to RTK Requests**

**a. Response To Request -- General.**

Upon receipt of a written request for access to or duplication of a record, the Open Records Officer shall determine if the requested record is a public record and if the Township has possession, custody or control of that record. The Open Records Officer shall respond as promptly as possible under the existing circumstances, and the initial response time shall not exceed five (5) business days from the date the written request is received by the Open Records Officer unless such time period is extended as noted below.

The initial response shall either:

- 1) notify the requester of the need for a time extension to fully respond;
- 2) grant access to the requested record;
- 3) deny access to the requested record;
- 4) partially grant and partially deny access to the requested record; or
- 5) request more detail from the requester to clearly identify the requested material if the Open Records Officer is unable to determine the records being sought.

If the Township fails to respond to a request within five (5) business days of receipt of the request, the request for access/duplication shall be deemed denied and the requestor shall have the right to appeal as set forth below.

**b. Extension Of Time.**

If the Open Records Officer determines that an extension of time is required to respond to a request, in accordance with the factors stated in the Open Records Act, written notice of the same shall be sent to the requester within five (5) business days of receipt of request. The notice shall indicate that the request for access is being reviewed, the reason that the review requires an extension, a reasonable date when the response is expected, and an estimate of applicable fees owed when the record becomes available. If such extension is less than or equal to a thirty (30) calendar day period following the five (5) business days allowed for the initial response, then no consent of the requester is necessary. In the event that such extension exceeds thirty (30) days from the date of end of the five (5) day period allowed for the initial response, then the Open Records Officer shall seek the written consent of the requester of the same. If the response is not given by the specified date, it shall be deemed denied on the day following that date.

**c. Grant Of Request.**

If the Open Records Officer determines that the request will be granted, the response shall inform the requester that access is granted and either include information on the regular business hours of the Township office during which the materials can be reviewed, provide electronic access to the requested public records, provide an invoice for the duplication costs of the public records, or state where the requester may go to inspect the records or information electronically at a publically accessible site. The response shall include a copy of the fee schedule in effect, shall note the medium in which the records will be provided and shall include a statement that prepayment of fees is required prior to the Township's efforts to copy the requested public records in a specified amount if access to the records will cost in excess of \$100.

In granting a request, the Open Records Officer may respond by notifying the requester that the record is available through publicly accessible electronic means or that the Township shall provide access to inspect the record electronically. If the requester, within thirty (30) days following receipt of the Township's notice, submits a written request to have the record converted to paper, the Township shall provide access in printed form within five (5) days of receipt of the request for conversion to paper upon payment of duplication costs therefor, unless such time period is extended as noted herein.

A public record that is not in the Township's possession, but that is possessed by a third party with whom the Township has contracted to perform a governmental function and which directly relates to that governmental function, shall be considered a public record of the Township unless otherwise exempt from disclosure under the Open Records Act. When the Township contracts with such a third party, the contractor shall be required to comply with requests for such records to the extent required by law and, if such is subject to disclosure under the Open Records Act, the third party contractor shall be required to provide the Township with the requested record in a timely manner in order to allow the Township to comply with law.

Redaction: If the Open Records Officer determines that a public record contains information that is subject to disclosure under the Act but that such information is comingled with information that is exempt from access thereunder, the Open Records Officer shall grant access to the information subject to access and deny access to the information not subject to access, subject to the ability of the Open Records Officer to redact from the public record such information that is not subject to access. The Open Records Officer will not deny access to a record if information is able to be redacted. Information that is not subject to access and is redacted from a public record shall be deemed a denial.

**d. Denial Of Request.**

If the Open Records Officer denies a request for access to a record, whether in whole or in part, a written response shall be sent within five (5) business days of receipt of the request unless such time is extended as noted above. The response denying the request shall include the following:

1. A description of the record requested.
2. The specific reason(s) for denial, including a citation of supporting legal authority.
3. The name, title, address, telephone number, and signature of the Open Records Officer on whose authority the denial is issued.
4. The date of the response.
5. The procedure for the requester to appeal a denial of access.

**e. Grounds for Denial of RTK Request.**

*Inter alia*, the Open Records Officer may deny a request for access to a record for any of the following reasons:

1. That the document/information sought is not a public record as defined by law. In this regard, it should be noted that the Township is not required to create a record that does not currently exist or to compile, maintain, format or organize a record in a manner in which the Township does not currently compile, maintain, format or organize the record.
2. That the Township nor any third party with whom the Township has contracted to perform a governmental function is not in possession or control of the information requested.
3. That timely access is not possible due to a disaster, or when access may cause physical damage or irreparable harm to the record. To the extent possible, a record's contents shall be made accessible even when the record is physically unavailable.
4. That the document/information sought is exempt from disclosure under the Open Records Act.

**f. Public Records Exempt from Disclosure.**

The following information and documents are exempt from disclosure under the Open Records Act:

- (1) A record the disclosure of which:
  - (i) would result in the loss of Federal or State funds by the Township; 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 the Township 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; (ii) lists of infrastructure, resources and significant special events, including those defined by the Federal Government in the National Infrastructure Protections, which are deemed critical due to their nature and which result from risk analysis; threat assessments; consequences assessments; antiterrorism protective measures and plans; counterterrorism measures and plans; and security and response needs assessments; and (iii) building plans or infrastructure records that expose or create vulnerability through disclosure of the location, configuration or security of critical systems, including public utility systems, structural elements, technology, communication, electrical, fire suppression, ventilation, water, wastewater, sewage and gas systems.

(4) A record regarding computer hardware, software and networks, including administrative or technical records, which, if disclosed, would be reasonably likely to jeopardize computer security.

(5) A record of an individual's medical, psychiatric or psychological history or disability status, including an evaluation, consultation, prescription, diagnosis or treatment; results of tests, including drug tests; enrollment in a health care program or program designed for participation by persons with disabilities, including vocation rehabilitation, workers' compensation and unemployment compensation; or related information that would disclose individually identifiable health information.

(6) The following personal identification information:

(i) A record containing all or part of a person's Social Security number; driver's license number; personal financial information; home, cellular or personal telephone numbers; personal email addresses; employee number or other confidential personal identification number.

(ii) A spouse's name; marital status, beneficiary or dependent information.

(iii) The home address of a law enforcement officer or judge.

Nothing in this paragraph shall preclude the release of the name, position, salary, actual compensation or other payments or expenses, employment contract, employment-related contract or agreement and length of service of a public official or a Township employee.

The Township may redact the name or other identifying information relating to an individual performing an undercover or covert law enforcement activity from a record.

(7) The following records relating to a Township employee:

(i) A letter of reference or recommendation pertaining to the character or qualifications of an identifiable individual, unless it was prepared in relation to the appointment of an individual to fill a vacancy in an elected office or an appointed office requiring Senate confirmation.

(ii) A performance rating or review.

(iii) The result of a civil service or similar test administered by a Commonwealth agency, legislative agency or judicial agency. The result of a civil service or similar test administered by a local agency shall not be disclosed if restricted by a collective bargaining agreement. Only test scores of individuals who obtained a passing score on a test administered by a local agency may be disclosed.

(iv) The employment application of an individual who is not hired by the Township.

(v) Workplace support services program information.

(vi) Written criticisms of an employee.

(vii) Grievance material, including documents related to discrimination or sexual harassment.

(viii) Information regarding discipline, demotion or discharge contained in a personnel file. This subparagraph shall not apply to the final action of the Township that results in demotion or discharge.

(ix) An academic transcript.

(8) (i) A record pertaining to strategy or negotiations relating to labor relations or collective bargaining and related arbitration proceedings. This subparagraph shall not apply to a final or executed contract or agreement between the parties in a collective bargaining procedure. (ii) In the case of the arbitration of a dispute or

grievance under a collective bargaining agreement, an exhibit entered into evidence at an arbitration proceeding, a transcript of the arbitration or the opinion. This subparagraph shall not apply to the final award or order of the arbitrator in a dispute or grievance procedure.

(9) The draft of a bill, resolution, regulation, statement of policy, management directive, ordinance or amendment thereto prepared by or for the Township.

(10) (i) A record that reflects:

(A) The internal, predecisional deliberations of the Township, its members, employees or officials or predecisional deliberations between Township members, employees or officials and members, 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.

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. This paragraph shall also not apply to a written or Internet application or other document that has been submitted to request Commonwealth funds, nor shall it 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 Township 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 the Township unless the donation is intended for or restricted to providing remuneration or personal tangible benefit to a named public official or employee of the Township, including lists of potential donors compiled by the Township to pursue donations, donor profile information or personal identifying information relating to a donor.

(14) (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.

(15) A record of the Township or any other 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).

(16) A record of the Township or an agency relating to a noncriminal investigation, including:

(i) Complaints submitted to the Township.

(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.

(17) (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.

(18) DNA and RNA records.

(19) 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.

(20) (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.

(21) (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.

(22) Library and archive circulation and order records of an identifiable individual or groups of individuals.

(23) 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.

(24) 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.

(25) 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).

(26) 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.

(27) 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.

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

**g. Disclosure; Notification.**

When the Township produces a document that is not a public record or that contains information that is not subject to disclosure under the Act, the Open Records Officer shall notify the requester, any third party that provided the record to the Township, and the party that is the subject of the record, of the disclosure. The requester shall then be required to return the particular disclosed document to the Township, and shall be precluded from further dissemination or use thereof. The disclosure of such shall not serve as a waiver of any applicable privilege. The Open Records Officer shall also notify a third party of a record request if a requested record contains a trade secret or confidential proprietary information, in accordance with law and administrative regulations.

**6. Appeal Procedures**

If a written request for access to a record is denied in full, denied in part or deemed denied, or if the requester believes that the grant of a written request is incomplete, the requester

may file an appeal with the Pennsylvania Office of Open Records within fifteen (15) business days of the mailing date of the Open Records Officer's response or deemed denial. The appeal must state the grounds upon which the requester asserts that the record is a public record and shall address any grounds stated by the agency for delaying or denying the request. The Pennsylvania Office of Open Records shall then process the appeal pursuant to the procedures set forth in the Open Records Act.