

<p>INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL UNION 743, et al, Plaintiffs</p> <p style="text-align: center;">vs.</p> <p>CITY OF READING, Defendant</p>	<p style="text-align: center;">COURT OF COMMON PLEAS BERKS COUNTY, PENNSYLVANIA</p> <p>CIVIL ACTION: LAW</p> <p>DOCKET NO.: 17-16478</p> <p>ASSIGNED: <i>JAMES M. LILLIS, JUDGE</i></p>
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OPINION AND ORDER

Before the Court is Plaintiffs' Motion for Attorney's Fees and Costs incurred, such fees and costs allegedly resulting from Defendant's failure to produce records after having been directed to do so by the Pennsylvania Office of Open Records. Upon review of the Record in this matter, including Pleadings, Memoranda, and Exhibits, which, in turn, include Findings and Determinations issued by Pennsylvania Office of Open Records, and after hearings and arguments upon Defendant's Petition to Open Judgment, Plaintiffs' Answer thereto, Plaintiffs' Motion for Attorney's Fees and Costs, and the Defendant's Response thereto, the Court finds as follows:

FINDINGS

1. This Court has jurisdiction of Plaintiffs' Action pursuant to the Right to Know Law, 2008 FEB. 14, P.L. 6, No. 3; 65 P.S. 67.101, et. seq., as amended. (Act)

2. Plaintiff, International Brotherhood of Electrical Workers, an unincorporated association operating in Berks County as Local Union 743 (Union) and Plaintiff, Edward Braukus (Braukus), a business representative of the Charter Union. Union and Braukus are Requesters under the Act.

3. Defendant, City of Reading is a City of the Third Class Organized and operating by statute and charter pursuant to the laws of the Commonwealth of Pennsylvania (City). The City is an “agency” subject to the Act.

4. On March 13, 2017, Plaintiffs submitted six Right to Know request forms to the City, requesting certain documents related to work to be performed for a project known as the Reading Waste Water Treatment Plant. (Records)

5. The City responded by invoking a statutory procedural option for a thirty-day extension within which to respond substantively to these requests.

6. The City did not respond to any of the requests within the thirty-day extension, and, in accordance with the Act, the requests were deemed denied. 65 P.S. § 67.902(b)(2)

7. The Plaintiffs then appealed the denials to the Pennsylvania Office of Open Records. (OOR)

8. On May 26, 2017, The OOR issued its final determinations granting the requests, noting that it was the City’s burden to establish exemptions from requirements to disclose requests for records. OOR noted further that the City did not issue a final response to the requests or provide any basis for denying the requests, and directed that the City provide the Records within thirty days.

9. The City failed to appeal OOR’s final determinations and failed to provide the Records.

10. On August 22, 2017, Union and Braukus filed the Complaint in this action, requesting the Court to direct the City to comply with OOR’s determinations, to produce the Records, and to award reasonable Attorney’s Fees and Costs.

11. The City failed to respond to the Complaint within twenty days and, accordingly, on December 28, 2017, Plaintiffs filed a default judgment against the City.

12. The City filed a Petition to Open the default judgment, including a Proposed Answer, New Matter and Crossclaim, in which the City purported to assert meritorious defenses to the Plaintiffs’ Claim.

13. On March 6, 2018, after argument held, this Court denied the Petition to Open and directed that the Plaintiffs file a motion in support of their claim for fees and costs and for the City to file an answer to that motion.

14. Plaintiffs filed the motion, seeking payment by the City for fees and costs in the amount of \$12,071.75. The Court finds this amount to be reasonable and necessarily incurred as a result of the Defendant's wanton disregard of its obligations under the Act and appropriate to encourage compliance with the Action in the future.

DISCUSSION

The City responded to Plaintiffs' motion claiming, essentially, that the records requested by Plaintiffs may be have been exempt from disclosure requirements under the Act in the first place, and the City could have posed timely objections and actively litigated against the requests for records. As such, the City's argument goes, the Plaintiffs would have incurred additional legal fees and costs, in addition to the amount they had actually incurred in this matter which, essentially, has proceeded with little opposition.

The Court rejects such argument as being meritless. First, we note that Plaintiff only seeks compensation for fees which it incurred *after* obtaining final, favorable determinations, resulting in large part from the City's failure to respond to the requests. The fees and costs which Plaintiffs seek result solely from preparation, service and prosecution of the subject action to enforce compliance with OOR's determinations. None of their claim goes to fees and costs incurred prior to OOR's final determinations.

This judge is well aware of the challenges faced by local governments in responding to a myriad of demands for services while operating on increasingly thin budgets. The Defendant in our case has strained admirably to serve its citizens under the pressures of its plan of recovery under the Municipality Financial Recovery Act, 1987, P.L. No. 47, § 101, et. seq. 53 P.S. § 11701.101, et. seq.; as amended. As such, it may be that the City is under-staffed and its officials occasionally

overwhelmed by other ever-mounting mandates imposed by state and federal laws, including the subject Right to Know Law.

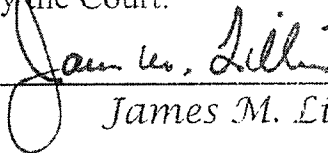
We must also recognize the very important purpose of the Act, that being to promote access to official government information in order to prohibit secrecy, to scrutinize public officials' actions, and to make them accountable for their actions. Housing Authority of the City of Pittsburgh v. Van Osdol, 40 A.3d 209 (PA. Cmwlth. 2012).

We find that the Plaintiffs' Claim for Fees and Costs is for reasonable and necessarily incurred fees and costs. The amount of fees and costs awarded to a prevailing party may reflect, in part, the potential public benefit achieved. Krassnoski v. Rosey, 454 Pa. Super. 78, 85, 684 A.2d 639 (1996). Enforcement of such claims will encourage future compliance with the Act, surely a benefit to the public and its right to know. Accordingly, the Court enters the following

ORDER

AND NOW, this 16th day of August, 2018, Judgment is entered in favor of Plaintiffs and against Defendant in the total amount of \$12,071.75.

By the Court:


James M. Lillis, J.