

IN THE COURT OF COMMON PLEAS OF COLUMBIA COUNTY, PENNSYLVANIA

JILL NAGY, <i>Petitioner</i>	No. 2011-CV-1722
v.	
SCOTT TOWNSHIP, <i>Respondent</i>	

**MEMORANDUM OF LAW IN SUPPORT OF
PETITION TO ENFORCE FINAL DETERMINATION
OF THE OFFICE OF OPEN RECORDS PURSUANT TO SECTION 1302(a) OF THE
PENNSYLVANIA RIGHT-TO-KNOW LAW, 65 Pa.C.S. § 67.1302(a)**

Petitioner seeks enforcement of an OOR Final Determination ordering release of a sign-in sheet from a Board of Supervisors' meeting. Respondent Scott Township has both failed to challenge the OOR Final Determination through a petition for review and to release the records. Petitioner files this Memorandum of Law in support of her Petition in order to enforce her right to receive the records under the Right-to-Know Law.

Petitioner is entitled to the records requested because Section 102 of the Act defines "Record" as

Information, regardless of physical form or characteristics, that documents a transaction or activity of an agency and that is created, received or retained pursuant to law or in connection with a transaction, business or activity of the agency. 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.

§102. Petitioner's request falls within the "Record" definition because it asks for sign-in sheets, in document form, that members of the public would have signed when they attended a public meeting of the Township. Thus, the documents requested constitute a public record as defined by the Act. Furthermore, the Act mandates that if a request is denied, said denial should be based upon specific legal authority including an applicable exception or a privilege. See §903. In this case, because the Township failed to respond, it failed to comply with the "denial requirements" mandated by section 903.

Nothing has been provided by the Township, including a "Records Retention" or "Records Destruction" Policy to demonstrate compliance with the Municipal Records Act as to disposal or destruction of records and there is no evidence from the Township of resolution for disposal per the Pennsylvania Right to Know Act. As such, the record must be made available as a matter of law. Furthermore, no exception in the Act or reasonable excuse exists to ignore or deny the request.

Petitioner's connection to other lawsuits with the Township bears no relevance to the request being granted. As the Act states, an agency "may not deny a requester access to a public record due to the intended use of the public record by the requester unless otherwise provided by law." 65 P.S. § 67.301. *See Hull v. Pennsylvania State Police*, 768 A.2d 909 (Pa. Commw. Ct. 2001) ("The reason that a record is sought is irrelevant; if

the record is public, it must be provided, no matter the motive behind the request.”)

Wherefore, for the reasons set for the above and in the Petition duly filed with this Honorable Court should be granted along with all relief available pursuant to Pennsylvania Law.

December 30, 2011

Respectfully Submitted,

BARLEY SNYDER LLC

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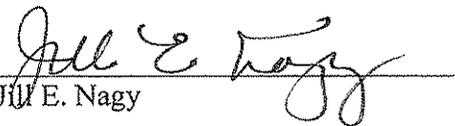
December 30, 2011

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VERIFICATION

I, Jill E. Nagy, petitioner herein, verify that the foregoing information is true and correct to the best of my knowledge and belief. I understand that my statements are made subject to the penalties of 18 Pa.C.S. § 4904, which relates to unsworn falsification to authorities.

December 30, 2011


Jill E. Nagy

CERTIFICATE OF SERVICE

I hereby certify that on this date a true and correct copy of the foregoing Petition is being served on counsel by first class mail at York, Pennsylvania, addressed as follows:

Scott Township
350 Tenny Street
Bloomsburg, PA 17815

Kyle Applegate
Commonwealth of Pennsylvania
Office of Open Records
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

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