



DISTRICT ATTORNEY'S OFFICE OF CHESTER COUNTY
201 WEST MARKET STREET, SUITE 4450
POST OFFICE BOX 2746
WEST CHESTER, PENNSYLVANIA 19380-0989

TELEPHONE: 610-344-6801
FAX: 610-344-5905

IN THE MATTER OF	:	DISTRICT ATTORNEY'S OFFICE
	:	
RAYMOND PETRY,	:	CHESTER COUNTY, PENNSYLVANIA
Requester	:	
	:	RIGHT TO KNOW APPEAL
v.	:	
	:	FINAL DETERMINATION
	:	
WEST VINCENT TOWNSHIP,	:	DA-RTKL-A NO. 2021-003
Respondent	:	
	:	

FACTUAL BACKGROUND

On April 12, 2021, Requester, Raymond Petry, filed a right-to-know request with the Respondent, West Vincent Township Police Department, pursuant to the Right to Know Law ("RTKL"), 65 P.S. § 67.101, et. seq.. On April 12, 2021, the request was denied. On April 21, 2021, Requester appealed to the Office of Open Records. On April 22, 2021, the Office of Open Records issued a decision which transferred the appeals to the Chester County District Attorney's Office [AP 2021-0823], which was received by email on April 22, 2021.

On April 22, 2021, this Appeals Officer for the Chester County District Attorney's Office gave Notice to the parties of the following:

On April 12, 2021, Requester filed a right-to-know request with the Respondent, pursuant to the Right to Know Law ("RTKL"), 65 P.S. § 67.101, *et. seq.*. On April 12, 2021, the request was denied. On April 21, 2021, Requester appealed to the Office of Open Records. On April 22, 2021, the Office of Open Records issued a decision which transferred the appeals to the Chester County District Attorney's Office [AP 2021-0823], which was received by email on April 22, 2021.

Unless the Requester agrees otherwise, as the appeals officer, I shall make a final determination, which shall be mailed to the Requester and the Respondent, **within 30 days of April 22, 2021, which is May 22, 2021.** 65 P.S. § 67.1101(b)(1). As May 22, 2021, falls on a Saturday, **the 30th day becomes May 24, 2021.** See 1 Pa.C.S.A. § 1908. If a final determination is not made within 30 days, the appeal is deemed denied by operation of law. 65 P.S. § 67.1101(b)(2). Prior to issuing a final determination, a hearing may be conducted. However, a hearing is generally not needed to make a final determination. The final determination shall be a final appealable order, and shall include a written explanation of the reason for the decision. 65 P.S. § 67.1101(b)(3).

The Respondent should submit any response on or before May 3, 2021.

The Respondent should note: The Supreme Court has held that a Respondent is permitted to assert exemptions on appeal, even if the agency did not assert them when the request was originally denied. Levy v. Senate of Pennsylvania, 619 Pa. 586, 65 A.3d 361 (2013). **Merely citing exceptions to the required disclosure of public records or conclusory statements are not sufficient to justify the exemption of public records.** Office of the Governor v. Scolforo, 65 A.3d 1095, 1103 (Pa. Cmwlth. 2013).

The Requester should submit any response on or before May 10, 2021.

The Requester should note: The Commonwealth Court has held that, pursuant to 65 P.S. § 67.1101(a), 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 agency for denying the request. **When a Requester fails to state the records sought are public, or fails to address an agency's grounds for denial, the appeal may be dismissed.** Padgett v. Pennsylvania State Police, 73 A.3d 644 (Pa. Cmwlth. 2013); Saunders v. Department of Correction, 48 A. 3d 540 (Pa. Cmwlth. 2012); Department of Corrections v. Office of Open Records, 18 A.3d 429 (Pa. Cmwlth. 2011).

Any statements of fact must be supported by an Affidavit made under penalty of perjury by a person with actual knowledge. However, legal arguments and citation to authority do not require Affidavits.

April 22, 2021 Letter of Chief Deputy District Attorney Nicholas J. Casenta, Jr.

The parties have informed this Appeal's Officer that the requested documents have been provided to the Requester by the Respondent. As the Requester and Respondent have settled this matter the appeal before this Appeals Officer is moot.

CONCLUSION

For the foregoing reasons, the appeal is **DISMISSED**, as moot and neither party is required to take any further action.

FINAL DETERMINATION ISSUED AND MAILED ON: May 24, 2021

Nicholas J. Casenta, Jr.

APPEALS OFFICER:

Nicholas J. Casenta, Jr., Esquire
Attorney I.D. No. 43844
Chief Deputy District Attorney
District Attorney's Office
Chester County Justice Center
201 West Market Street, P.O. Box 2746
West Chester, PA 19380-0989
(610) 344-6801

FINAL DETERMINATION MAILED TO:

Raymond Petry
558 St. Matthews Road
Chester Springs, PA 19425
raypetry@comcast.net

Kathy Shillenn, Open Records Officer
West Vincent Township
729 St. Matthews Road
Chester Springs, PA 19425
kshillenn@westvincenttp.org