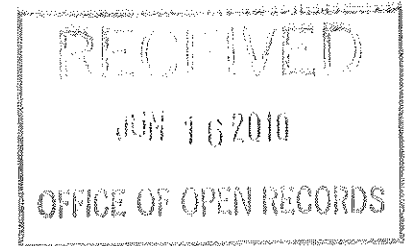


June 16, 2010



Nathan Byerly – Chief Counsel
Office of Open Records
Commonwealth of Pennsylvania
Commonwealth Keystone Building
400 North Street, Plaza Level
Harrisburg, PA 17120-0225

Re: Right to Know Law – Advisory Opinion Request

Dear Mr Byerly:

This is a request for an "advisory opinion" based on an appeal to the Pennsylvania Right-to-Know Law, Docket # AP 20100523, which has been settled and closed. In that appeal I had requested copies of the Berrysburg Community Centers bank statements, checks and deposits slips from the Berrysburg Borough Council. I did not receive a timely response as required by the Law and my request was therefore deemed denied. I appealed the denial of my request under section 1101 of the Law. However during the appeal process I discovered there are many differing interpretations of a "business day". There is one for agencies, boroughs and townships with full time staffs and one for agencies, boroughs and townships with part-time staffs. The problem is getting information from the part-time staffs using the current interpretation of an "agency meeting day" constitutes a "business day" for answering RTK request. Some of these agencies only meet monthly, quarterly, semi-annually or annually. It could be years until you get the information you are requesting.

Attached you will find an e-mail copy of my Right to Know request and the response. I would look forward to a further discussion of the problems with the current interpretation of a "business day" that is being used to instruct new RTK Officers on their duties and responsibilities.

Thank you for your consideration of this request.

Sincerely Yours,

Charles E Gallagher
P O Box 156
Berrysburg, Pa 17005
(717)362-9015
mcnoonie@epix.net

Brawley, Maryanne

From: Berrysburg Borough [berrysburgboro@epix.net]
Sent: Friday, June 04, 2010 7:52 PM
To: 'Charles E Gallagher'
Cc: 'Scott Harner'; lawservice@epix.net
Subject: RTK Request

On May 19, 2010, I received a request from you for copies of statement, checks and deposits from 10/30/09 to 2/2010 for the Community Center. According to the RTK workshop that I attended, I have 5 meetings to forward this information to you. Since I do not have regular hours at the borough building, the borough meetings are considered days for RTK requests.

I have contacted Owen Holtzman and will be receiving this information shortly. As soon as I receive the information, I will forward to you.

Thank you,

Diane Kennedy
Right to Know Officer
Berrysburg Borough

6/16/2010

Brawley, Maryanne

From: Charles E Gallagher [mnoonie@epix.net]
Sent: Wednesday, June 16, 2010 8:05 AM
To: DC, OpenRecords
Subject: Attn Nathan Byerly: Request Advisory Opinion
Attachments: RTK Advisory Appeal Letter.doc; RTK Request.eml

Please let me know your decision.

Thanks
Charlie G.

6/16/2010



July 12, 2010

Charles Gallagher
PO Box 156
Berrysburg, PA 17005

Re: Advisory Opinion request

Dear Mr. Gallagher:

On June 16, 2010, the Office of Open Records received your request for an advisory opinion based on an appeal you withdrew. Please be advised that the OOR is unable to issue an advisory opinion when related to a specific request or appeal even after the appeal has been withdrawn.

You stated that during the appeal process, you discovered there are has many differing interpretations of the term "business day." You stated that certain agencies have part time staff that interpet the term "business day" to be an "agency meeting day." You expressed concern that since some of the agencies meet monthly, quarterly, semi-annually and annually, it could be montsh and even years before a requester will receive the records requested.

The Office of Open Records (OOR) has consistently determined that a business day is the same for any agency. A "business day" is any day that an agency is open for business and/or operation. The term "open for business" is extremely fact specific. A determination as to whether a specific agency is open for business is properly addressed within the RTKL appeal process. This appeal process permits a full examination of all the facts surrounding a specific request or type of request. In addition, the process allows for the parties to present their position on whether an agency is open for business.

If you have any additional questions, please do not hesitate to contact our office.

Respectfully,

A handwritten signature in black ink, appearing to read "Terry Mutchler", is written over a large, faint, stylized watermark or signature.

Terry Mutchler
Executive Director