

DELAWARE COUNTY HOUSING AUTHORITY OPEN RECORDS POLICY

Background

Act 3 of 2008, commonly known as the “Open Records Law,” will generally take effect on January 1, 2009. The Open Records Law substantially amended the Act of June 21, 1957 (P. L. 390, No. 212), and Act 2002-50 (P.L. 663, No. 50), 65 P. S. §§ 66. 1-66.9, commonly referred to as the “Right-To Know Law,” Delaware County Housing Authority (DCHA) hereby amends its open records policies and procedures to allow implementation of the Open Records Law.

Procedure

- A. Open Records Officer. Pursuant to the Act, the Executive Director shall be designated as the Opens Records Officer responsible for receiving, tracking and responding to Open Records Requests. In the absence or unavailability of the Open Records Officer, the designee may act as the Deputy Open Records Officer.

- B. Requests.
 1. Oral requests – The Act does not require that DCHA respond to oral requests. The Open Records Officer may refuse to accept any oral request.
 2. Anonymous requests – The Act does not require that DCHA respond to Anonymous requests. The Open Records Officer shall refuse to accept any written request that does not identify the Requester.
 3. Non-anonymous written requests – The Act requires that DCHA act upon each non-anonymous written request when such request is submitted in person, by mail or by facsimile or e-mail. Requests submitted by an electronic method (e-mail) or by facsimile are permitted by the Act.
 4. Contents of a request – The Act sets forth various specifications for the contents of a written request. Thus, the request must include the name of the Requester and the address to which DCHA should address its Response. The request should identify or describe the Records sought with sufficient specificity to enable DCHA to ascertain which Records are being requested.
 5. Forms – DCHA has created an Open Records Request Form which is attached hereto. However, pursuant to the Act, a Request may also be made using forms available from the Commonwealth of Pennsylvania Office of Open Records.
 6. Citizenship requirement – The Act provides that DCHA provide a Requester with access to a Public Record if the Requester is a citizen of the United

States. DCHA may require that the Requester produce photographic identification to determine proof of citizenship.

C. Submittal of Open Records Requests

1. All Open Records Requests are to be addressed to:

Lawrence E. Hartley, P.H.M.
Executive Director
Delaware County Housing Authority
1855 Constitution Avenue
P.O. Box 100
Woodlyn, Pennsylvania 19094-0100

Or

E-mail: leh@dcha1.org

DCHA shall post its information to its website and shall post it in a location that is publicly accessible.

2. The five (5) business day period does not begin to run until DCHA's Open Records Officer has received a request. If an Open Records Request is submitted to some official or employee of DCHA other than the Open Records Officer, the five (5) business day period has not yet begun.

D. DCHA's Duty to Provide a Prompt Response to an Open Records Request

1. Five (5) business day period – Section 3.3(a) of the Act provides that, upon receipt of a written Open Records Request, the Municipality must make a good faith effort to determine if the requested Record is a Public Record and to respond as promptly as possible under the circumstances existing at the time of the request, and that the time shall not exceed five (5) business days from the date the written request is received by DCHA's Open Records Officer. The Act provides that either a final or an interim written response must be made within five (5) business days from the date the Open Records Officer received the request. If the Open Records Officer fails to respond within that time period, the Open Records Request is Deemed Denied.
2. 30-calendar-day extension period – Although, in general, the Act and this Policy contemplates that Requesters will receive a Response within the five (5) business day period, it also provides DCHA with certain specific exceptions to invoke a single extension of time, which may not exceed 30 calendar days. If an extension is invoked and then there is no timely Response, the Open Records Request is Deemed Denied. Likewise, if the Open Records Officer notifies the Requester that it needs more than the maximum of 30 days, the request is Deemed Denied.

3. For purposes of determining the five (5) business period:
 - a. A business day shall be from 9:00 a.m. until 4:45 p.m. on any Monday, Tuesday, Wednesday, Thursday, or Friday except those days when the offices of DCHA are closed for all or part of a day due to a holiday; due to severe weather (such as a blizzard or ice storm); due to natural or other disaster; or due to the request or direction of local, state or federal law enforcement officials.
 - b. Any Open Records Request received by the Open Records Officer after the close of its regular business hours shall be deemed received on the following business day. Thus, for example, a facsimile transmission received at 6:00 p.m. on a Friday is deemed to be received on the following Monday (unless Monday is a holiday).
 - c. For the purpose of determining the end of the five (5) business day period, the day that an Open Records Request is received (or deemed received) is not counted. The first day of the five (5) business day period is DCHA's next business day.

E. Maintenance of Requests

The Open Records Officer shall maintain an electronic or paper copy of the request, including all documents submitted with the request. The Open Records Officer will maintain Requests for a minimum of 30 days unless an appeal is filed, in which case the request shall be maintained until a final determination is issued or the appeal is deemed denied.

F. Responses

1. The act of providing a Requester with physical access to a document or a copy of the requested Record, in the Open Records Office, is a "Response" for purposes of this Open Records Policy. Unless DCHA issues written policies to the contrary, only the Open Records Officer possesses the authority to permit this access.
2. Where timely access is not provided in accordance with 1, the Act requires that DCHA's Response be in writing. The Open Records Officer has the duty to prepare and send written Responses.
3. DCHA is not required to create a Public Record that does not already exist, nor is DCHA required to compile, maintain, format, or organize a Public Record in a manner in which DCHA does not currently do so.
4. The Open Records Officer shall send written Responses to Requesters by one of the following, in its discretion: United States mail, facsimile transmission; electronic transmission; overnight or parcel delivery service; or, courier delivery.

5. The Act requires that DCHA must provide a Response to an Open Records Request within five (5) business days unless one or more specific conditions are satisfied and DCHA gives the Requester written notice that additional time will be required. That notice is referred to as an “interim Response.”
6. Deemed Denials. The failure of DCHA to make a timely final Response is a Deemed Denial under the terms of the Act.
7. Responses that deny Open Records Requests, either in whole or in part.
 - a. A Response that denies an Open Records Request (either in whole or in part) shall explain the reasons relied upon by DCHA for denying the Open Records Request.
 - b. In the event that DCHA’s Response is a denial or a partial denial, the Response shall also contain a notice informing the Requester of his or her right to file an appeal, and shall set forth the name and mailing address of the Commonwealth of Pennsylvania Office of Open Records.
 - c. Inaction by DCHA is not a Response, even when it results in a Deemed Denial.

G. Duplication of Public Records

1. A Public Record shall be accessible for duplications by a Requester. DCHA does not make duplication equipment available to a Requester but shall provide other means by which a Requester may obtain copies, through DCHA personnel.
2. DCHA will assign its own staff to make the duplications requested by the Requester. Photo copies of standard size records shall be (up to .25 cents) per page. Certification of a record should be (up to \$1.00) per record. DCHA shall charge the Requester other reasonable fees consistent with the prevailing charges in the geographic location where the duplication occurs and as permitted by the Office of Open Records.
3. DCHA may at its discretion waive fees.
4. In the event the estimated cost of fulfilling a Request submitted under this policy is expected to exceed \$100.00, the designated employee(s) shall inform the Requester of the expected cost in advance of fulfilling the Request. If the Requester does not pay in advance, the request will be denied.
5. If access to the Record requested is denied, the notice provided by DCHA shall be in writing as indicated on the form attached hereto.

6. If the Request is denied or deemed denied, the Requester may file an appeal with the Commonwealth of Pennsylvania Office of Open Records within fifteen (15) business days of the mailing date of DCHA's notice of denial, or within fifteen (15) days of a deemed denial. 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 delaying or denying the request.
7. Within thirty (3) days of the mailing of the final determination of the appeals officer, the Requester of DCHA may file a petition for review or other document as required by Rule of Court with the Court of Common Pleas for Delaware County. A petition for review under this section shall stay the release of documents until a decision is issued.
8. If Requester fails to pick up requested records that have been duplicated for the requester, DCHA may dispose of the copies after sixty (60) days and is not required to send reminder letters.
9. This policy shall be available for review at DCHA office and on its website.

H. Appeals

Appeals pursuant to this Policy may be filed at the address listed below:

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

Phone: 717-346-9903

Fax: 717-425-5343

E-mail: openrecords@state.pa.us

**DELAWARE COUNTY HOUSING AUTHORITY
STANDARD RIGHT-TO-KNOW REQUEST FORM**

DATE REQUESTED: _____

REQUEST SUBMITTED BY: E-MAIL U.S. MAIL FAX IN-PERSON

NAME OF REQUESTER: _____

STREET ADDRESS: _____

CITY/STATE/COUNTY/ZIP (Required): _____

TELEPHONE (Optional): _____

RECORDS REQUESTED:

**Provide as much specific detail as possible so the agency can identify the information.*

DO YOU WANT COPIES? YES NO

DO YOU WANT TO INSPECT THE RECORDS? YES NO

DO YOU WANT CERTIFIED COPIES OF RECORDS? YES NO

FOR DCHA USE ONLY

RIGHT TO KNOW OFFICER:

DATE RECEIVED BY DCHA:

AGENCY FIVE (5) BUSINESS DAY RESPONSE DUE:

***Public bodies may fill anonymous verbal or written requests. If the requestor wishes to pursue the relief and remedies provided for in this Act, the request must be in writing. (Section 702.)
Written request need not include an explanation why information is sought or the intended use of the information unless otherwise required by law. (Section 703.)*