



pennsylvania

OFFICE OF OPEN RECORDS FINAL DETERMINATION

IN THE MATTER OF:

**MARION LAZUR,
Complainant**

v.

**RUSH TOWNSHIP,
Respondent**

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Docket No.: AP 2010-0961

INTRODUCTION

Marion Lazur (the “Requester”) filed a right-to-know request with Rush Township (the “Township”) pursuant to the Right to Know Law (the “RTKL”), 65 P.S. §67.101, *et. seq.* seeking to view financial records. The Township granted the request but advised that it would need to make copies in order to redact account numbers. The Township required prepayment of \$10.00. The Requester filed a timely appeal with the Office of Open Records (the “OOR”). For the reasons set forth in this Final Determination, the appeal is **granted**.

FACTUAL BACKGROUND

On September 24, 2010 the Requester submitted a request as follows: “I request to view/review the original bills/invoices as listed on the back of this request form, for the months of January 2007, February 2007 and March 2007, in the Rush Twp. General Fund.” The Requester listed the check numbers and vendors for which she sought to view the invoices. On September 30, 2010 the Township responded that “in order to

fulfill your request to view the original bills...will require redaction of vendor account numbers.” The Township advised that this would require making copies of the invoices and charged the Requester \$10.00.

On October 14, 2010 the Requester timely appealed to the OOR challenging the necessity of redaction for six of the requested invoices that she alleges do not have account numbers. She also asserts copies of the other requested invoices are not necessary because the Township could cover the account numbers with removable tape.

On October 27, 2010 the Township responded asserting that it is not required to cover records with tape.

LEGAL ANALYSIS

The RTKL is “designed to promote access to official government information in order to prohibit secrets, scrutinize the actions of public officials and make public officials accountable for their actions.” *Bowling v. OOR*, 990 A.2d 813, 824 (Pa. Commw. 2010). The OOR is authorized to hear appeals for all Commonwealth and local agencies. *See* 65 P.S. §67.503(a). An appeals officer is required “to review all information filed relating to the request.” 65 P.S. §67.1102(a)(2). An appeals officer may conduct a hearing to resolve an appeal. The decision to hold a hearing or not hold a hearing is discretionary and non-appealable. *Id.* The law also states that an appeals officer may admit into evidence testimony, evidence and documents that the appeals officer believes to be reasonably probative and relevant to an issue in dispute. *Id.* Here, neither party requested a hearing.

The Township is a local agency subject to the RTKL that is required to disclose public records. 65 P.S. §§67.102 and 302. Records in possession, custody or control of a

local or Commonwealth agency are presumed public unless exempt under the RTKL or other law or protected by a privilege, judicial order or decree. *See* 65 P.S. §67.305. An agency bears the burden of proving the applicability of any cited exemptions, *See* 65 P.S. §67.708(b). Section 708 of the RTKL clearly places the burden of proof on the public body to demonstrate that a record is exempt. In pertinent part, Section 708(a)(1) states: “[t]he burden of proving that a record of a Commonwealth agency or local agency is exempt from public access shall be on the Commonwealth agency or local agency receiving a request by a preponderance of the evidence.” 65 P.S. §67.708(a). Preponderance of the evidence has been defined as "evidence which as a whole shows that the fact sought to be proved is more probable than not," BLACK'S LAW DICTIONARY 1064 (8th ed.); *see also Commonwealth v. Williams*, 567 Pa. 272, 786 A.2d 961 (2001).

An agency is required to provide access to inspect records that are not exempt. Section 701. The requested invoices are financial records as defined by the RTKL. Section 102. In the instant appeal, the agency denied access to the account numbers assigned to it by its vendors. There is no provision in the RTKL that makes this information exempt from public access.¹ Therefore, the Township improperly denied access to the account numbers. As there is no evidence that any other information on the requested invoices is claimed exempt the invoices do not require redaction. The Requester specifically sought access to view, and not copies of, the invoices, and the Township is required to provide the requested access during normal business hours at no charge for copies. Section 701.

CONCLUSION

¹ (c) Financial records. — The exceptions set forth in subsection (b) shall not apply to financial records, except that an agency may redact that portion of a financial record protected under subsection (b)(1), (2), (3), (4), (5), (6), (16) OR (17).

For the foregoing reasons, the Requester's appeal is **granted**. Within thirty (30) days of the date of mailing of this Final Determination the Township is required to provide access to the Requester to view the requested invoices without redaction. This Final Determination is binding on the parties. Within thirty (30) days of the mailing date of this Determination, either party may appeal to the Schuylkill County Court of Common Pleas. All parties must be served with notice of the appeal. The Office of Open Records also shall be served notice and have an opportunity to respond according to court rules. 65 P.S. §67.1302. The parties are further advised that a copy of this Final Determination will appear on the Office of Open Records website, <http://openrecords.state.pa.us>

FINAL DETERMINATION ISSUED AND MAILED: November 5, 2010



**APPEALS OFFICER
AUDREY BUGLIONE, ESQUIRE**

Sent to: Marion Lazur, Terry Conville