

FRIENDS OF FARMWORKERS, INC.
BY: Matthew S. Rubin
Attorney No. 209423
Attorney for Appellant
Friends of Farmworkers, Inc.
42 S. 15th Street, Suite 605
Philadelphia, PA 19102
(215) 733-0878, ext. 170

JUL 07 2011
OFFICE OF OPEN RECORDS

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

FRIENDS OF FARMWORKERS, INC.,
42 S. 15th Street, Suite 605 :
Philadelphia, PA 19102 :
Appellant, :
:
:
v. :
:
CITY OF PHILADELPHIA :
One Parkway :
1515 Arch Street :
Philadelphia, PA 19102 :
Appellee :

JULY 5, 2011

NOTICE OF APPEAL and PETITION FOR REVIEW

Pursuant to 65 P.S. § 67.1302, Appellant, Friends of Farmworkers (“FOF”),¹ hereby appeals and petitions for review from the adjudication of the Pennsylvania Office of Open Records (“OOR”) made on June 6, 2011 (Docket No. AP 2009-1054).²

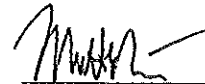
¹ Both the original right-to-know requests and the subsequent appeals at issue in this case were filed by “Matthew S. Rubin, Staff Attorney, Friends of Farmworkers, Inc.” See Exh. 1. The intent of those requests and appeals was for Friends of Farmworkers to be the requesting party, as represented by Mr. Rubin. Accordingly, “Friends of Farmworkers, Inc.” was captioned as the appellant by the Office of Open Records below. See Exh. 2. For the purposes of the instant appeal, therefore, Friends of Farmworkers – again represented by Mr. Rubin – is being captioned as the requestor/appellant. In any case, both Friends of Farmworkers as an organization and Matthew S. Rubin as an individual have authorized the filing of this appeal.

² FOF has filed this single notice of appeal and petition for review to reach the denial of six (6) right-to-know requests it filed on March 2, 2011. Throughout the course of this case, appellee the City of Philadelphia has represented that it has authority to represent all of the agencies served with requests by FOF on March 2, 2011, and has acted with such authority. See Exh. 1. Indeed, on May 11, 2011, the City, acting on behalf of all the agencies, requested that FOF consent to consolidating all six docket numbers into one case before the OOR, and FOF consented. See Exh. 7. For whatever reason, OOR did not consolidate the six appeals, and the OOR issued six separate final determinations. See Exh. 2. Those final determinations, which are identical in substance, have the following OOR Captions and Docket Numbers:

The following exhibits, which are referenced in the brief to be filed this same day by appellants, are attached to this Notice of Appeal and Petition for Review: Exhibit 1, Appellant's Appeal to OOR (including original right-to-know requests and agency responses); Exhibit 2, Final Determinations of the OOR; Exhibit 3, Appellant's Petition for Reconsideration to the OOR; Exhibit 4, Appellee's Email Petition for Reconsideration to the OOR; Exhibit 5, OOR's Denial of Appellee's Email Petition for Reconsideration; Exhibit 6, OOR's Denial of Appellant's Petition for Reconsideration; Exhibit 7, Emails Between Appellant and Appellee

Date: July 5, 2011

Respectfully submitted,



Matthew S. Rubin, Esquire
Attorney No. 209423
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42 South 15th Street, 6th Floor
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(215) 733-0878 ext. 170
Attorney for Appellant

Friends of Farmworkers, Inc. v. Philadelphia Law Dept. (Docket No. AP 2011-0595); *Friends of Farmworkers, Inc. v. Philadelphia Police Dept.* (Docket No. AP 2011-0596); *Friends of Farmworkers, Inc. v. City of Philadelphia*, (Docket No. AP 2011-0597); *Friends of Farmworkers, Inc. v. Philadelphia Mayor's Office*, (Docket No. AP 2011-0598); *Friends of Farmworkers, Inc. v. Philadelphia Records Dept.* (Docket No. 2011-0599); *Friends of Farmworkers, Inc. v. Philadelphia Technology Dept.* (Docket No. 2011-0600).

CERTIFICATE OF SERVICE

I, Matthew S. Rubin, attorney for appellant, certify that on this 5th day of July 2011, I served a copy of the foregoing Notice of Appeal and Petition for Review, by way of first class mail, to:

Christopher R. DiFusco, Esq
1515 Arch Street, 17th Floor
Philadelphia, PA 19102
215-683-5019
215-693-5296 (fax)
christopher.difusco@phila.gov

Lieutenant Michael Dwyer
Philadelphia Police Department
750 Race Street, Room 203
Philadelphia, PA 19106
215-686-3277
215-686-1183 (fax)
police.research@phila.gov

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



Matthew S. Rubin, Esquire
Attorney No. 209423
Friends of Farmworkers, Inc.
42 South 15th Street, 6th Floor
Philadelphia, PA 19102
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OFFICE OF OPEN RECORDS

FINAL DETERMINATION

FRIENDS OF FARMWORKERS, INC., :
Complainant :

v. :

Docket No. AP 2011-0597

CITY OF PHILADLEPHIA, :
Respondent :

I write to you in regard to the above-mentioned appeal filed with the Office of Open Records (“OOR”) under the Right-to-Know Law, 65 P.S. §§67.101 *et seq.*, (“RTKL”). Upon review of the file, the appeal is dismissed for the following reason:

On March 2, 2011, Matthew Rubin, Esq., on behalf of Friends of Farmworkers, Inc., filed a RTKL request (the “Request”) with the City of Philadelphia (“City”). On March 9, 2011, the City sent an e-mail to Mr. Rubin asserting a thirty-day extension pursuant to 65 P.S. § 67.902. A response from the City was thus due no later than April 8, 2011.

On April 11, 2011, the City requested an additional week to respond, to which the Requester agreed. On April 18, 2011, the City partially granted the Request.

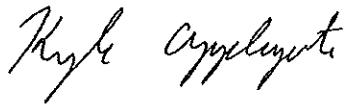
Under the RTKL, an agency must respond to a RTKL request within five business days of receipt of the request. *See* 65 P.S. § 67.901. An agency may extend its time to respond to a request by up to thirty calendar days. *See* 65 P.S. § 67.902. An agency may extend its time to respond past thirty calendar days only if the requester has agreed to the extension in writing. *See* 65 P.S. § 67.902(b)(2).

Mr. Rubin and the City are permitted to agree to an extension beyond thirty days if that agreement is in writing. However, in this case, the City’s response was due no later than April 8, 2011, and there is no evidence that the parties agreed to such an extension in writing by that date. When the City did not respond by April 8, 2011, the Request was deemed denied.

Pursuant to 65 P.S. § 67.1101(a)(1), an appeal must be filed within fifteen business days of a deemed denial. Here, the appeal should have been filed on or before April 29, 2011. As the appeal in the present case was not filed until May 5, 2011, the appeal is **dismissed as untimely**.

The file is now closed and no further action will be taken. 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 Philadelphia County Court of Common Pleas. *See* 65 P.S. § 67.1302(a). All parties must be served with notice of the appeal. The OOR also shall be served notice and have an opportunity to respond according to court rules.

FINAL DETERMINATION ISSUED AND MAILED: June 6, 2011



APPEALS OFFICER
KYLE APPLGATE, ESQ.

Sent to: Matthew Rubin, Esq.; Joshua Stein, Esq.; Benjamin Hinerfeld, Esq.



pennsylvania

OFFICE OF OPEN RECORDS

FINAL DETERMINATION

FRIENDS OF FARMWORKERS, INC., :
Complainant :

v. :

Docket No. AP 2011-0599

PHILADELPHIA RECORDS :
DEPARTMENT, :
Respondent :

The above-mentioned appeal was filed with the Office of Open Records (“OOR”) under the Right-to-Know Law, 65 P.S. §§ 67.101 *et seq.*, (“RTKL”). Upon review of the file, the appeal is dismissed for the following reason:

Matthew Rubin, Esq., on behalf of Friends of Farmworkers, Inc., filed identical RTKL requests with six City of Philadelphia (“City”) agencies, including the Philadelphia Records Department (“Department”), on March 2, 2011. On March 9, 2011, the City sent an e-mail to Mr. Rubin asserting a thirty-day extension pursuant to 65 P.S. § 67.902 for all six requests, including the one at issue here (the “Request”). A response from the City was thus due no later than April 8, 2011.

On April 11, 2011, the City requested an additional week to respond, to which the Requester agreed. On April 18, 2011, the City partially granted the Request.

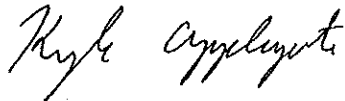
Under the RTKL, an agency must respond to a RTKL request within five business days of receipt of the request. *See* 65 P.S. § 67.901. An agency may extend its time to respond to a request by up to thirty calendar days. *See* 65 P.S. § 67.902. An agency may extend its time to respond past thirty calendar days only if the requester has agreed to the extension in writing. *See* 65 P.S. § 67.902(b)(2).

Mr. Rubin and the City are permitted to agree to an extension beyond thirty days if that agreement is in writing. However, in this case, the City’s response was due no later than April 8, 2011, and there is no evidence that the parties agreed to such an extension in writing by that date. When the City did not respond by April 8, 2011, the Request was deemed denied.

Pursuant to 65 P.S. § 67.1101(a)(1), an appeal must be filed within fifteen business days of a deemed denial. Here, the appeal should have been filed on or before April 29, 2011. As the appeal in the present case was not filed until May 5, 2011, the appeal is **dismissed as untimely**.

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FINAL DETERMINATION ISSUED AND MAILED: June 6, 2011



APPEALS OFFICER
KYLE APPELEGATE, ESQ.

Sent to: Matthew Rubin, Esq.; Joshua Stein, Esq.; Benjamin Hinerfeld, Esq.



pennsylvania
OFFICE OF OPEN RECORDS

FINAL DETERMINATION

FRIENDS OF FARMWORKERS, INC., :
Complainant :

v. :

Docket No. AP 2011-0600

PHILADELPHIA TECHNOLOGY :
DEPARTMENT, :
Respondent :

The above-mentioned appeal was filed with the Office of Open Records (“OOR”) under the Right-to-Know Law, 65 P.S. §§ 67.101 *et seq.*, (“RTKL”). Upon review of the file, the appeal is dismissed for the following reason:

Matthew Rubin, Esq., on behalf of Friends of Farmworkers, Inc., filed identical RTKL requests with six City of Philadelphia (“City”) agencies, including the Philadelphia Technology Department (“Department”), on March 2, 2011. On March 9, 2011, the City sent an e-mail to Mr. Rubin asserting a thirty-day extension pursuant to 65 P.S. § 67.902 for all six requests, including the one at issue here (the “Request”). A response from the City was thus due no later than April 8, 2011.

On April 11, 2011, the City requested an additional week to respond, to which the Requester agreed. On April 18, 2011, the City partially granted the Request.

Under the RTKL, an agency must respond to a RTKL request within five business days of receipt of the request. *See* 65 P.S. § 67.901. An agency may extend its time to respond to a request by up to thirty calendar days. *See* 65 P.S. § 67.902. An agency may extend its time to respond past thirty calendar days only if the requester has agreed to the extension in writing. *See* 65 P.S. § 67.902(b)(2).

Mr. Rubin and the City are permitted to agree to an extension beyond thirty days if that agreement is in writing. However, in this case, the City’s response was due no later than April 8, 2011, and there is no evidence that the parties agreed to such an extension in writing by that date. When the City did not respond by April 8, 2011, the Request was deemed denied.

Pursuant to 65 P.S. § 67.1101(a)(1), an appeal must be filed within fifteen business days of a deemed denial. Here, the appeal should have been filed on or before April 29, 2011. As the appeal in the present case was not filed until May 5, 2011, the appeal is **dismissed as untimely.**

The file is now closed and no further action will be taken. 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 Philadelphia County Court of Common Pleas. *See* 65 P.S. § 67.1302(a). All parties must be served with notice of the appeal. The OOR also shall be served notice and have an opportunity to respond according to court rules.

FINAL DETERMINATION ISSUED AND MAILED: June 6, 2011



APPEALS OFFICER
KYLE APPLGATE, ESQ.

Sent to: Matthew Rubin, Esq.; Joshua Stein, Esq.; Benjamin Hinerfeld, Esq.



pennsylvania
OFFICE OF OPEN RECORDS

FINAL DETERMINATION

FRIENDS OF FARMWORKERS, INC., :
Complainant :

v. :

Docket No. AP 2011-0598

PHILADELPHIA MAYOR'S :
OFFICE, :
Respondent :

I write to you in regard to the above-mentioned appeal filed with the Office of Open Records ("OOR") under the Right-to-Know Law, 65 P.S. §§67.101 *et seq.*, ("RTKL"). Upon review of the file, the appeal is dismissed for the following reason:

Matthew Rubin, Esq., on behalf of Friends of Farmworkers, Inc., filed identical RTKL requests with six City of Philadelphia ("City") agencies, including the Philadelphia Mayor's Office ("Office"), on March 2, 2011. On March 9, 2011, the City sent an e-mail to Mr. Rubin asserting a thirty-day extension pursuant to 65 P.S. § 67.902 for all six requests, including the one at issue here (the "Request"). A response from the City was thus due no later than April 8, 2011.

On April 11, 2011, the City requested an additional week to respond, to which the Requester agreed. On April 18, 2011, the City partially granted the Request.

Under the RTKL, an agency must respond to a RTKL request within five business days of receipt of the request. *See* 65 P.S. § 67.901. An agency may extend its time to respond to a request by up to thirty calendar days. *See* 65 P.S. § 67.902. An agency may extend its time to respond past thirty calendar days only if the requester has agreed to the extension in writing. *See* 65 P.S. § 67.902(b)(2).

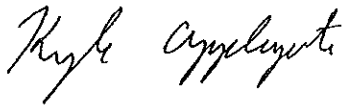
Mr. Rubin and the City are permitted to agree to an extension beyond thirty days if that agreement is in writing. However, in this case, the City's response was due no later than April 8, 2011, and there is no evidence that the parties agreed to such an extension in writing by that date. When the City did not respond by April 8, 2011, the Request was deemed denied.

Pursuant to 65 P.S. § 67.1101(a)(1), an appeal must be filed within fifteen business days of a deemed denial. Here, the appeal should have been filed on or before April 29, 2011.

As the appeal in the present case was not filed until May 5, 2011, the appeal is **dismissed as untimely**.

The file is now closed and no further action will be taken. 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 Philadelphia County Court of Common Pleas. *See* 65 P.S. § 67.1302(a). All parties must be served with notice of the appeal. The OOR also shall be served notice and have an opportunity to respond according to court rules.

FINAL DETERMINATION ISSUED AND MAILED: June 6, 2011

A handwritten signature in cursive script that reads "Kyle Applegate".

APPEALS OFFICER
KYLE APPLGATE, ESQ.

Sent to: Matthew Rubin, Esq.; Joshua Stein, Esq.; Benjamin Hinerfeld, Esq.



pennsylvania

OFFICE OF OPEN RECORDS

FINAL DETERMINATION

FRIENDS OF FARMWORKERS, INC., :
Complainant :

v. :

Docket No. AP 2011-0596

PHILADELPHIA POLICE :
DEPARTMENT, :
Respondent :

I write to you in regard to the above-mentioned appeal filed with the Office of Open Records (“OOR”) under the Right-to-Know Law, 65 P.S. §§67.101 *et seq.*, (“RTKL”). Upon review of the file, the appeal is dismissed for the following reason:

On March 2, 2011, Matthew Rubin, Esq., on behalf of Friends of Farmworkers, Inc., filed a RTKL request (the “Request”) with the Philadelphia Police Department (“Department”). On March 9, 2011, the City of Philadelphia (“City”), on behalf of the Department, asserted the City’s right to a thirty-day extension pursuant to 65 P.S. § 67.902.¹ A response from the City was thus due no later than April 8, 2011.

On April 11, 2011, the City requested an additional week to respond, to which the Requester agreed. On April 18, 2011, the City partially granted the Request.

Under the RTKL, an agency must respond to a RTKL request within five business days of receipt of the request. *See* 65 P.S. § 67.901. An agency may extend its time to respond to a request by up to thirty calendar days. *See* 65 P.S. § 67.902. An agency may extend its time to respond past thirty calendar days only if the requester has agreed to the extension in writing. *See* 65 P.S. § 67.902(b)(2).

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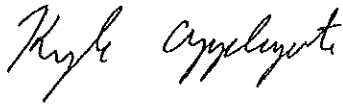
Pursuant to 65 P.S. § 67.1101(a)(1), an appeal must be filed within fifteen business days of a deemed denial. Here, the appeal should have been filed on or before April 29, 2011.

¹ That same day, the Department sent Mr. Rubin a letter stating the same.

As the appeal in the present case was not filed until May 5, 2011, the appeal is **dismissed as untimely**.

The file is now closed and no further action will be taken. 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 Philadelphia County Court of Common Pleas. *See* 65 P.S. § 67.1302(a). All parties must be served with notice of the appeal. The OOR also shall be served notice and have an opportunity to respond according to court rules.

FINAL DETERMINATION ISSUED AND MAILED: June 6, 2011



APPEALS OFFICER
KYLE APPLGATE, ESQ.

Sent to: Matthew Rubin, Esq.; Joshua Stein, Esq.; Benjamin Hinerfeld, Esq.



pennsylvania

OFFICE OF OPEN RECORDS

FINAL DETERMINATION

FRIENDS OF FARMWORKERS, INC., :
Complainant :

v. :

Docket No. AP 2011-0595

PHILADELPHIA LAW :
DEPARTMENT, :
Respondent :

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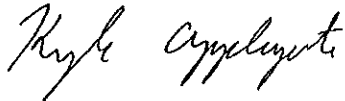
Under the RTKL, an agency must respond to a RTKL request within five business days of receipt of the request. *See* 65 P.S. § 67.901. An agency may extend its time to respond to a request by up to thirty calendar days. *See* 65 P.S. § 67.902. An agency may extend its time to respond past thirty calendar days only if the requester has agreed to the extension in writing. *See* 65 P.S. § 67.902(b)(2).

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