

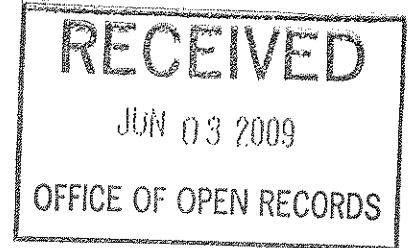


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June 2, 2009
VIA UPS

Dena Lefkowitz, Appeals Officer
Pennsylvania Office of Open Records
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225



Re: Right to Know Appeal No. 2009-0184

Dear Ms. Lefkowitz:

This firm represents SWB Yankees LLC ("SWB") in connection with the above matter. We are writing to request reconsideration of the final determination your office issued on May 7, 2009, which stated that records in SWB's possession are "public records" within the meaning of the RTKL and, therefore, the disclosure of those records to Ms Wintermantel was required under the RTKL. For the reasons that follow, SWB requests that your office allow SWB the opportunity to brief and argue this issue, an opportunity that SWB has not had to date.

It is our understanding that the Office of Open Records has issued a final determination against the Lackawanna County Multi-Purpose Stadium Authority (the "Stadium Authority"), relative to a request for records made by Ms. Wintermantel, a determination stemming from a process in which SWB was not afforded the opportunity to participate. Pursuant to a management agreement, the Stadium Authority has delegated to SWB all duties relating to the oversight, management and administration of events at PNC Stadium. Therefore, it was SWB, and not the Stadium Authority, that conducted the search for a concessionaire at PNC Field and it is SWB that owns and possesses the requested records.

It is SWB's position that the requested records are not "public records" within the meaning of the RTKL and, therefore, are not subject to disclosure. Because the records belong to SWB, SWB had a "direct interest" in the outcome of this appeal and would have been permitted to argue that position during the appeal process under § 1101(c) of the RTKL. But, because SWB was not aware that these proceedings were pending until after the issuance of a final determination, SWB was unable to participate in the appeal and now is subject to a final determination having had no opportunity to appear, to submit information, or otherwise to protect its rights.

In light of SWB's inability to participate in the appeal in the first instance, SWB respectfully requests that your office provide it with an opportunity to be heard in this appeal, and that you reconsider your final determination accordingly. SWB proposes that it be permitted to submit a brief in support of its position



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regarding the bid records; that Ms. Wintermantel be provided with fourteen (14) days to make a responsive submission; and that SWB be permitted seven (7) days to submit a reply brief.

We will await your response. Please do not hesitate to call me with any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read 'AD Brown', with a long, sweeping flourish extending to the right.

Adam D. Brown

cc: Gretchen Wintermantel
Frank Tunis, Jr., Esq.