



pennsylvania

OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF

**RICHARD MYCHAK,
Complainant**

v.

**MT. CARMEL TOWNSHIP,
Respondent**

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Docket No. AP 2009-1107

INTRODUCTION

Richard Mychak (the “Requester”) submitted a request to Mt. Carmel Township (“Township”) seeking contract with legal counsel, hourly rate, and explanation of retainer fees pursuant to the Right-to-Know Law, 65 P.S. §§67.101 *et seq.*, (“RTKL”). The Township did not substantively respond. The Requester timely appealed to the Office of Open Records (“OOR”).

For the reasons set forth in this Final Determination, the Requester’s appeal is **granted**, and the Township is required to take further action.

FACTUAL BACKGROUND

On October 28, 2009, the Requester submitted a request to the Township seeking a “copy of [Township] attorney’s contract, hourly rate and explanation on what retainer fee covers” (the “Request”). Samuel Scicchitano, Chairman of the Board of Township Supervisors, timely invoked the thirty-day extension, and advised that a response would be provided by December 9th. As the Township provided no further response, this Request was deemed denied.

The Requester timely appealed on December 14th. Upon receipt of the Appeal and the OOR's correspondence seeking details, the Township did not supplement the record or provide grounds for withholding the records.

LEGAL ANALYSIS

The OOR is authorized to hear appeals for all Commonwealth and local agencies. *See* 65 P.S. §67.503(a). The Township is a local agency subject to the RTKL that is required to disclose public records. 65 P.S. §67.302. Records of a local agency are presumed "public" unless the record is: (1) exempt under Section 708(b); (2) protected by a privilege; or (3) exempt from disclosure under any other Federal or State law or regulation or judicial order or decree. 65 P.S. §67.305.

Contracts with agencies are public records, specifically as "financial records" by definition. 65 P.S. §67.102. The Township did not dispute the public nature of the records requested or contend that responsive records do not exist. As the Township failed to overcome the presumption of openness because it did not submit evidence to justify withholding the information, it must disclose the records.

CONCLUSION

For the foregoing reasons, the Requester's appeal is **granted**, and the Township is directed to provide the records to the Requester within thirty (30) days.

This Final Determination is binding on the parties. Within thirty (30) days of the mailing date of this Final Determination, either party may appeal to the Northumberland County Court of Common Pleas. 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. This Final Determination shall be placed on the website at <http://openrecords.state.pa.us>.

FINAL DETERMINATION ISSUED AND MAILED: January 12, 2010

A handwritten signature in cursive script, appearing to read "Lucinda Glinn".

**LUCINDA GLINN, ESQ.
APPEALS OFFICER**

Sent to: Richard Mychak; Samuel Scicchitano for Township