

The OOR requested the Police Department to explain its deemed denial and to assert any exemptions applicable to the records. No submissions were received.

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 and the pertinent facts are not in dispute.

The Police Department is a local agency required to disclose public records. *See* 65 P.S. §67.302. Records in possession of a local 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). Here, the agency advised of its intention to grant the Request.

On its face, the Request seeks “financial records” as defined in Section 102, *i.e.*, “an account, voucher or contract dealing with ...disbursement of funds by an agency.” Also by definition, a “financial record” is a “public record,” and disbursements of agency funds for purchase or maintenance are public records that must be disclosed. Financial records may be redacted to remove records protected under certain limited exceptions as set forth in Section 708(c). However, the Police Department did not assert any of these exceptions here. Thus, the records must be disclosed.

CONCLUSION

For the foregoing reasons, the Requester's Appeal is **granted**, and the Police Department is directed to provide the Requester with the responsive financial records 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 Philadelphia 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: September 13, 2010



LUCINDA GLINN, ESQ.
APPEALS OFFICER

Sent to: L. Kenneth Chotiner, Esq.; Lieutenant Dwyer



September 15, 2010

Via U.S. Mail

L. Kenneth Chotiner, Esq.
1818 Market Street, Suite 3620
Philadelphia, PA 19103

Lt. Michael Dwyer
Open Records Officer
Philadelphia Police Department
750 Race Street, Room 203
Philadelphia, PA 19106

Re: AP 2010-0764, *Chotiner v. Philadelphia Police Department* ("Police Department")

AMENDED FINAL DETERMINATION

Dear Parties:

I enclose an amended copy of the Final Determination in the above appeal. The determination has been amended to correct the caption which indicates a different police department.

Please be advised that the corrected copy will be posted on the website and does not alter the actual issuance and mailing date of September 13, 2010, for appeal calculations, nor change the outcome of the appeal.

Thank you for your attention and kindly excuse any inconvenience this may have caused.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Lucinda Glimm", is written in black ink.

Lucinda Glimm
Appeals Officer

Encl.

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**LUCINDA GLINN, ESQ.
APPEALS OFFICER**

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