

# **NORTHAMPTON COUNTY HOUSING AUTHORITY RIGHT-TO-KNOW POLICY FOR PUBLIC RECORDS**

## **I. Introduction**

The Northampton County Housing Authority ( the "Authority") is a housing authority duly organized under the Pennsylvania Housing Authorities Law, 35 P.S. § 1541, et seq. As such, the Authority is a local agency for purposes of the Pennsylvania Right-to-Know Act, 65 P. S. § 67.101 et seq.

All local agencies shall provide public records in accordance with the Right-to-Know Law. Therefore, any record in the possession of the Authority shall be presumed to be a public record, except in the following circumstances:

- (a) The record is exempt under section 708 of the Right-to-Know Law;
- (b) The record is protected by the attorney-work product doctrine, the attorney-client privilege, or other privilege recognized by the laws of the Commonwealth of Pennsylvania (i.e., statute or case law); or
- (c) The record is exempt from disclosure under any other federal or state law or regulation, or judicial order or decree.

Records are broadly defined under the Right-to-Know Law. The term includes a document, paper, letter, map, book, tape, photograph, film or sound recording, information stored or maintained electronically, and a data-processed or image-processed document.

Requests for public records can be made by any person or who is a legal resident of the United States, including resident aliens. Requests to the Authority can also be made by other local agencies, Commonwealth agencies (e.g., The Department of the Auditor General or the Treasury Department), judicial agencies (i.e., the courts), or legislative agencies (e.g., the Senate and House of Representatives).

## **II. Access and Procedure**

Requesters may make oral requests for access to records. However, if the requester wishes to pursue the relief and remedies provided for in the Right-to-Know Law, the request for access to records must be a written request containing the information set forth on the "Standard Right-to-Know Request Form" attached hereto and made part hereof as Appendix "A." A written request for access to records may be submitted in person, by mail, by e-mail, or by facsimile.

The Authority has designated Gwendolyn Didden to act as the Open-Records Officer ("Officer"). The Officer's contact information is set forth below:

Gwendolyn Didden, Open-Records Officer  
15 S Wood Street  
Nazareth, PA 18064  
(610) 759-8488  
[gidden@northamptoncountyha.org](mailto:gidden@northamptoncountyha.org)

Questions regarding this policy may be directed to the Officer at the telephone or e-mail address listed above.

All written requests must be addressed to the Officer. In the event that a written request for records is addressed to an Authority board member or employee other than the Officer, the Authority board member or employee is hereby directed to promptly forward such requests to the Officer.

Written requests should identify or describe the record sought with sufficient specificity to enable the Authority to ascertain which records are being requested. Unless otherwise required by law, a written request need not include any explanation of the requester's reason for requesting the records or the intended use of such records. The Authority shall assign a tracking number to each filed form so as to track the Authority's progress in responding to requests under the new Right-to-Know Law.

Prior to granting a request for access in accordance with the Right-to-Know Law, the Authority may require a requester to prepay an estimate of the fees authorized by law if the fees required to fulfill the request are expected to exceed \$100.00. The fee structure established by the Authority is attached hereto and made part of this policy as Appendix "B." Except as otherwise provided by statute, no other fees may be imposed unless the agency necessarily incurs costs for complying with the request, and any such fees must be reasonable.

In all circumstances, the requester must agree to pay applicable fees authorized by the new Right-to-Know Law, such as (but not limited to) postage (not to exceed actual cost of mailing), duplication and certification. **All applicable fees shall be paid before a requester receives access to the record(s) requested.**

A record being provided to a requester shall be provided in the medium requested if it exists in that medium; otherwise, it shall be provided in the medium in which it exists. **In other words, the Authority shall not be required to create a record which does not currently exist or to otherwise compile, maintain, format or organize a record in a manner in which it does not currently compile, maintain, format or organize such record.** The Authority may impose reasonable fees for official certification of copies if the certification is at the behest of the requester and for the purpose of legally verifying the public record.

Upon receipt of a written request for a public record, the Officer shall do the following:

- (a) Note the date of the receipt on the written request;
- (b) Compute the day on which the five business day period (see discussion of response, below) will expire, and make a notation of that date on the written request; and
- (c) Create a file for the retention of the original request, a copy of the response, a record of written communications with the requester, and a copy of other communications.

### **III. Authority's Response**

Upon receipt of a written request for access to a record, the Authority shall make a good faith effort to determine if the record requested is a public record and whether the Authority has possession, custody or control of the identified record. When doing so, the Authority will respond as promptly as possible under the circumstances existing at the time of the request. **Under the Right-to-Know Law, the Authority must send a response within five (5) business days of receipt of the written request for access, or else the written request shall be deemed denied.** For purposes of this policy, a business day is any Monday, Tuesday, Wednesday, Thursday or Friday, except when those days fall on a holiday.

Upon receipt of a written request for access, the Officer shall determine if one of the following applies:

- (a) The request for access requires redaction of a record in accordance with the Right-to-Know Law;
- (b) The request for access requires the retrieval of a record stored in a remote location;
- (c) A timely response to the request for access cannot be accomplished due to bona fide and specified staffing limitations;
- (d) A legal review is necessary to determine whether the record is a record subject to access under the Right-to-Know Law;
- (e) The requester has not complied with the Authority's policies regarding access to records;
- (f) The requester refuses to pay applicable fees authorized by the Right-to-Know Law; or
- (g) The extent or nature of the request precludes a response within the required time period of five (5) business days.

Upon a determination that one of the factors listed above applies, the Officer shall send written notice to the requester within five (5) business days of receipt of the request for access. The notice shall include a statement notifying the requester that the request for access is being reviewed, the reason for the review, a reasonable date that a response is expected to be provided, and an estimate of applicable fees owed when the record becomes available. Information which the Authority redacts in accordance with the Right-to-Know Law shall be deemed a denial.

If none of the above applies, the documents should be provided within the five (5) business day period.

If the date that a response is expected to be provided is in excess of thirty (30) calendar days, following the five (5) business days allowed for above, the request for access shall be deemed denied unless the requester has agreed in writing to an extension to the date specified in the notice. If the requester agrees to the extension, the request shall be deemed denied on the day following the date specified in the notice, if the Authority has not provided a response by that date.

For purposes of this policy, the "mailing date" shall be the date affixed to a: (1) response from the Officer to a request, which is to be the date the response is deposited in the U.S. mail; (2) final determination from the Officer, which is to be the date the final determination is deposited in the U.S. mail.

#### **IV. Appeal of Authority's Determination**

If a written request for access to a record is denied or deemed denied, the requester may file an appeal with the Pennsylvania Office of Open Records within fifteen (15) business days of the mailing date of the Authority's response or within fifteen (15) business day of a deemed denial. The appeal shall state the grounds upon which the requester asserts that the record is a public record, and shall address any grounds stated by the Authority for delaying or denying the request.

#### **V. Retention of Records**

Nothing in the Right-to-Know Law shall be construed to modify, rescind or supercede the Authority's obligations for record retention and disposition under any state or federal law, including the Authority's obligations under the laws and regulations administered by the United States Department of Housing and Urban Development ("HUD").

**EXHIBIT A**

**HOUSING AUTHORITY OF THE COUNTY OF BERKS  
RIGHT-TO-KNOW REQUEST FORM**

**DATE REQUESTED:** \_\_\_\_\_

**REQUEST SUBMITTED BY:**     E-MAIL         U.S. MAIL         FAX         IN-PERSON

**REQUEST SUBMITTED TO (Agency name & address):** \_\_\_\_\_

**NAME OF REQUESTER:** \_\_\_\_\_

**STREET ADDRESS:** \_\_\_\_\_

**CITY/STATE/COUNTY/ZIP (Required):** \_\_\_\_\_

**TELEPHONE (Optional):** \_\_\_\_\_ **EMAIL (optional):** \_\_\_\_\_

**RECORDS REQUESTED:** \*Provide as much specific detail as possible so the agency can identify the information. *Please use additional sheets if necessary*

**DO YOU WANT COPIES?**     YES     NO

**DO YOU WANT TO INSPECT THE RECORDS?**     YES     NO

**DO YOU WANT CERTIFIED COPIES OF RECORDS?**     YES     NO

**DO YOU WANT TO BE NOTIFIED IN ADVANCE IF THE COST EXCEEDS \$100?**     YES     NO

**\*\* PLEASE NOTE: RETAIN A COPY OF THIS REQUEST FOR YOUR FILES \*\***  
**\*\* IT IS A REQUIRED DOCUMENT IF YOU WOULD NEED TO FILE AN APPEAL \*\***

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***FOR AGENCY USE ONLY***

**OPEN-RECORDS OFFICER:**

I have provided notice to appropriate third parties and given them an opportunity to object to this request

**DATE RECEIVED BY THE AGENCY:**

**AGENCY FIVE (5) BUSINESS DAY RESPONSE DUE:**

*\*\*Public bodies may fill anonymous verbal or written requests. If the requester wishes to pursue the relief and remedies provided for in this Act, the request must be in writing. (Section 702.) Written requests need not include an explanation why information is sought or the intended use of the information unless otherwise required by law. (Section 703.)*

## **EXHIBIT B**

### **FEE STRUCTURE**

<b><u>Record Type</u></b>	<b><u>Fee</u></b>
<b>Copies:</b> (A “photocopy” is either a single-sided copy or one side of a double-sided black-and-white copy of a standard 8.5” x 11” page)	\$0.25 per page
<b>Certification of a Record:</b>	\$5.00 per record; if notarized, notary fee is added to the \$5.00 charge
<b>Specialized documents:</b> (For example, but not limited to, blue prints, Color copies, non-standard sized documents)	Actual Cost
<b>Facsimile/Microfiche/Other Media:</b>	Actual Cost
<b>Redaction Fee:</b>	No Redaction Fee
<b>Conversion Fee:</b>	If a record is only maintained electronically or in other non-paper media, duplication fees shall be limited to the lesser of the fee for duplication on paper or the fee for duplication in the original media unless the requester specifically requests for the record to be duplicated in the more expensive medium.
<b>Postage Fees:</b>	Actual Cost of Mailing
<b>Inspection of Redacted Records:</b>	If a requester wishes to inspect rather than receive a copy of a record and the record contains both public and non-public information, the Authority shall redact the non-public information and charge \$0.25 per page for redacted copies for viewing. If, after inspecting the records, the requester chooses to obtain the copies, no additional fee will be charged for those pages.
<b>Prepayment:</b>	Prior to granting a request for access in accordance with the Right-to-Know Act, the Authority will require a requester to prepay an estimate of the fees authorized under this section if the fees required to fulfill the request are expected to exceed \$100.00.  Once the request is fulfilled and prepared for release, the Authority will require the payment of the cost of the records prior to releasing the records.