

01.05.09

**RESOLUTION NO. 01-2009**

**IT IS HEREBY RESOLVED** that the Honey Brook Borough Authority hereby adopts the following Right-To-Know Policy for Public Records:

**HONEY BROOK BOROUGH AUTHORITY  
RIGHT-TO-KNOW POLICY FOR PUBLIC RECORDS**

**I. Introduction**

The Honey Brook Borough Authority ("Authority") is a body corporate and politic, duly organized in the Commonwealth of Pennsylvania by the Borough of Honey Brook, Pennsylvania, under the former Municipality Authorities Act of 1945, repealed by Act 2001, June 19, P.L. 287, No. 22, § 3, now known as the "Municipality Authorities Act," Act 2001, June 19, P.L. 287, No. 22, § 4, 53 Pa. C.S.A. § 5601 et seq. As such, the Authority is a local agency for purposes of the new Right-to-Know Law effective January 1, 2009 .

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 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 a court interpreting the laws of the Commonwealth of Pennsylvania; 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.

The Authority has designated Michael Shuler, to act as the Open-Records Officer (“Officer”). The Officer’s contact information is set forth below:

Honey Brook Borough Authority  
91 Pequea Avenue  
P.O. Box 669  
Honey Brook, PA 19344-0308  
Telephone: 610-273-7830  
Facsimile: 610-273-3115  
Email: [hbba@verizon.net](mailto:hbba@verizon.net)

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, and all such requests must be submitted in person, by mail, by e-mail or by facsimile. In the event that a written request for records is addressed to an Authority employee other than the Officer, the Authority 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 and shall include the name



and address to which the Authority should address its response. 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. A form which may be used to file a request may be obtained from the Officer at the Authority's office. 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 fees must be reasonable and based on prevailing fees for comparable duplication services provided by local business entities. Except as otherwise provided by statute, no other fees may be imposed unless the agency necessarily incurs costs for complying with the request, and such fees must be reasonable.

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.**

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-day period (see discussion of response, below) will expire, and make a notation of that date on the written request;
- (c) Maintain an electronic or paper copy of a written request, including all documents submitted with the request until: (i) the request has been



fulfilled; (ii) if denied, for 30 days; (iii) if an appeal is filed, until a final determination or the appeal is deemed denied; and

- (d) 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 those days when the Authority's office is closed for all or part of a day due to a state 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 can not 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 the date that a response is expected to be provided is in excess of thirty (30) 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 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.

The Office of Open Records has established a internet website with information relating to the Right-to-Know Law, including information on fees, advisory opinions and decisions, plus the name and address of all Open-Records Officers in the Commonwealth of Pennsylvania. For information on the Office of Open Records, please go to [openrecords.state.pa.us](http://openrecords.state.pa.us). (Please note: among other matters, the Office of Open Records shall establish fees for duplication by photocopying, printing from electronic media or microfilm, copying onto electronic media, and other means of duplication.)

**V. Retention of Records**

By adoption of Resolution 02-2009, the Authority publicly declared its intention to follow the Municipal Records Act, 53 Pa. C.S.A. § 1381 et seq., with respect to the retention and disposition of public records. Nothing in the Right-to-Know Law shall be construed to modify, rescind or supercede the Authority's lawfully adopted record retention and disposition



policy. Moreover, nothing in the Right-to-Know Law shall be construed to require access to any computer of the Authority, or that of an individual or employee of the Authority.

ADOPTED this 3<sup>rd</sup> day of Feb, 2009.

Attest:

Thomas E. Woffe  
Secretary

HONEY BROOK BOROUGH AUTHORITY

By:

Jonathan L. Swartz  
Chairman





# Fee Schedule -

## For Records - Supersedes current Regular Fee Schedule

PA STATE AGENCIES

ONLINE SERVICES

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Open Records

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## pennsylvania

OFFICE OF OPEN RECORDS

### Fee Structure

Section 1307 of the Right-To-Know law requires the Office of Open Records to establish a fee structure for Commonwealth Agencies and Local Agencies. To promote uniformity among all agencies, the Office of Open Records encourages Judicial and Legislative agencies, which can set their own fees, to adopt the following fee structure. All agencies are advised that duplication fees can be waived.

The Office of Open Records establishes the following fee structure in accordance with the law. The Law requires that the Office of Open Records review the fee structure biannually. The Office will review the fee structure in June of 2009. Any updates will be placed on our website by June 30, 2009.

### Fee Structure

Record Type

Fee

**Copies:**

(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)

Between 10 per page to a maximum 25 per page.

2.5 cents per page

**Certification of a Record:**

An agency 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. The Office of Open Records recommends no more than \$5 per record to certify a public record. Please note that certification fees do not include notarization fees.

**Specialized documents:**

(For example, but not limited to, blue prints, color copies, non-standard sized documents)

Actual Cost

**Facsimile/Microfiche/Other Media:**

Actual Cost

**Redaction Fee:**

No Redaction Fee May be Imposed

**Conversion to Paper:**

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. (Sec. 1307(e)).

**Postage Fees:**

Fees for Postage May Not Exceed the Actual Cost of Mailing

**Please Also Be Advised:**

- **Statutory Fees:** If a separate statute authorizes an agency to charge a set amount for a certain type of record, the agency may charge no more than that statutory amount. For example, a Recorder of Deeds may charge a copy fee of 50 cents per uncertified page and \$1.50 per certified page under 42 P.S. § 21051. Police departments have the



authority to charge up to \$15 per report for providing a copy of a vehicle accident report. 75 Pa.C.S. §3751 (b)(2). Philadelphia police may charge up to \$25 per copy. *Id.* at (b)(3). State police are authorized to charge "\$5 for each copy of the Pennsylvania State Police full report of investigation." 75 Pa.C.S. §1956(b).

- **Inspection of Redacted Records:** 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 agency shall redact the non-public information. An agency may not charge the requester for the redaction. However, the Agency may charge for the copies it must make of the redacted material in order for the requester to view the public record. The fee structure outlined above will apply. If, after inspecting the records, the requester chooses to obtain the copies, no additional fee may be charged.
- **Enhanced Electronic Access :** If an agency offers enhanced electronic access to records in addition to making the records accessible for inspection and duplication by a requester, the agency may establish user fees specifically for the provision of the enhanced electronic access, but only to the extent that the enhanced electronic access is in addition to making the records accessible for inspection and duplication by a requester as required by this Act. The user fees for enhanced electronic access may be a flat rate, a subscription fee for a period of time, a per-transaction fee, a fee based on the cumulative time of system access or any other reasonable method and any combination thereof. The user fees for enhanced electronic access must be reasonable, must be pre-approved by the Office of Open Records and shall not be established with the intent or effect of excluding persons from access to records or duplicates thereof or of creating profit for the agency. Please submit any request to the  
Office of Open Records  
400 North Street  
Harrisburg , PA. 17120.
- **Fee Limitations:** Except as otherwise provided by statute, the law states that no other fees may be imposed unless the agency necessarily incurs costs for complying with the request, and such fees must be reasonable. No fee may be imposed for an agency's review of a record to determine whether the record is a public record, legislative record or financial record subject to access in accordance with this Act. No fee may be charged for searching for or retrieval of documents. An agency may not charge staff time or salary for complying with a RTK request.
- **Prepayment:** Prior to granting a request for access in accordance with this Act, an agency may 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.
  - Once the request is fulfilled and prepared for release, the Office of Open Records recommends that the agency obtain the cost of the records prior to releasing the records. This recommendation is designed to avoid situations in which the agency provides the records and the requester fails to submit payment.

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