

# **Borough of Ben Avon**

## **Right-to-Know Law Policy**

(Adopted **March 19, 2019** pursuant to 65 P.S. § 67.504(a))

**Effective Date: 3/19/2019**

### **I. Authority**

The Borough of Ben Avon (“Borough”) adopts this policy pursuant to Section 504(a) of the Right-to-Know Law, 65 P.S. §§ 67.101-67.3104 (“RTKL”). The Agency has made this policy available to the public at its administrative office(s) and on its public website along with the RTKL Uniform Request Form. *See* 65 P.S. § 67.504(b) (relating to agency posting requirements under the RTKL).

### **II. Definitions**

All of the definitions set forth in the RTKL are incorporated into this policy by reference. *See* 65 P.S. § 67.102.

*AORO.* The Agency Open Records Officer designated by the Borough pursuant to Section IV of this policy.

*Business day.* The regular business hours of the Borough are **Monday, Wednesday, Thursday 8:30 a.m. – 4:00 p.m., Tuesday 11:30 a.m. – 7:00 p.m.** Business days exclude Saturday and Sunday and a weekday on which the Agency is closed for business.

### **III. Borough Website**

The Borough maintains a public website at ***benavon.com***. Many of the records most commonly requested from the Borough are available on the website. The following information is also posted on the Borough’s website: AORO contact information; contact information for the OOR; a form which may be used to file a RTKL request; and a copy of this policy. *See* 65 P.S. § 67.504(b) (relating to agency posting requirements under the RTKL).

### **IV. Submitting a RTKL Request to the Borough**

*A. Open Records Officer.* The Borough has designated an AORO to respond to RTKL requests.

The contact information for the AORO is:

Borough Secretary, AORO

By Mail: 7101 Church Avenue  
Pittsburgh, PA 15202

In Person: 7101 Church Avenue  
Pittsburgh, PA 15202

Phone: 412-766-7704

Fax: 412-766-7311

Email: [benavon@benavon.com](mailto:benavon@benavon.com)

The contact information for the AORO is posted on the Borough website.

- B. *Request.* Requests must be submitted in writing using the RTKL Uniform Request Form available on the Borough website and must be addressed to the AORO. If a requester chooses not to use the RTKL Uniform Request Form, the request will be considered an informal request, not subject to the RTKL. This means that the requester cannot pursue the relief and remedies provided for in the RTKL. To allow the Borough to locate requested records and determine whether those records are public, requests for records should be specific and concise and clearly identify, as precisely as possible, the records sought. See 65 P.S. § 67.703. Requesters should clearly indicate the preferred method of access – paper copies, electronic copies or by inspection. A requester should retain a copy of the request, as a copy of the request is necessary should a requester appeal the Borough response.
- C. *Receipt of the request.* For the purpose of calculating the response deadline, the Borough is deemed to have received the request on the business day that the AORO receives the request. See 65 P.S. § 67.901. Any request that is received by the Borough after the close of regular business hours shall be deemed to be received on the next business day. If the request is received by a Borough employee other than the AORO, the request will be forwarded to AORO as soon as practical.

- D. *Verbal requests.* The Borough will respond to verbal requests for records at its discretion. Requesters submitting verbal requests for records should be aware that they may not pursue the remedies available to a requester under the RTKL.
- E. *Anonymous requests.* The Borough will not respond to anonymous requests for records.
- F. *Response period generally.* The Borough has 5 business days to respond to a request for records under the RTKL. If a Borough does not respond, the request is considered “deemed denied,” and a requester’s appeal rights commence.

## **V. Borough Response**

- A. *Extension of time for response.* The Borough is permitted to take an additional 30 calendar days to respond to any request for the reasons set forth in Section 902 of the RTKL. *See* 65 P.S. § 67.902. If the Borough invokes an extension, the Borough will inform the requester in writing, in accordance with the requirements set forth in Section 902(b)(2) of the RTKL.
- B. *Requester’s agreement to extend the response period.* The requester may agree, in writing, to extend the Borough’s response period. *See* 65 P.S. § 67.902(b)(2). The requester must agree to the extension during the initial 5 business-day response period or the extended 30 calendar day response period, if the Borough has invoked one.
- C. *Trade secrets.* If a request involves records provided to the Borough by a third party and the third party previously provided the Borough with a written statement that the record contains a trade secret or confidential proprietary information, the Borough shall provide notice to the third party. *See* 65 P.S. § 67.707(b).
- D. *Final response.* The Borough may grant a request, partially grant and partially deny a request, or deny a request in its entirety. The final response of the Borough will be in writing. Should the Borough fail to issue a response within the applicable response period, the request is deemed denied. *See* 65 P.S. § 67.901.
  - 1. *Granting access to records.* The Borough may grant a request for records by issuing a response: (1) granting access to inspect Borough records during the Borough’s regular business hours; (2) sending copies of the records to the

requester; or (3) by notifying the requester that the records are available on the Borough website or other publicly accessible electronic means. *See* 65 P.S. §§ 67.701(a), 704.

2. *Denying or partially denying access to records.* Should the Borough deny or partially deny a request for records through redaction or otherwise, the Borough will inform the requester of the denial or partial denial in writing. The response will describe the requested records, inform the requester that the Borough does not possess the responsive records or, if the records are exempt from public access, provide a citation to the relevant legal basis for withholding the requested records. *See* 65 P.S. § 67.903. Additionally, the response will provide the name, signature, title, business address and telephone number of the Open Records Officer who denied the request, as well as the date of the response and the procedure to appeal the denial. *See* 65 P.S. § 67.903.

- E. *Fees.* The Borough will charge fees consistent with the RTKL Fee Structure, available at <http://www.openrecords.pa.gov/RTKL/FeeStructure.cfm>.

## **VI. RTKL Appeals**

- A. *Generally.* To challenge the denial, partial denial, or deemed denial of a request for Borough records, an appeal may be filed using the OOR appeal form, available at <http://www.openrecords.pa.gov/Appeals/AppealForm.cfm>, or by contacting:

Executive Director  
Office of Open Records  
Commonwealth of Pennsylvania  
333 Market St., 16th Floor  
Harrisburg, PA 17101-2234  
[openrecords@pa.gov](mailto:openrecords@pa.gov)

- B. *Requirements of an appeal.* All appeals must be filed within 15 business days of the mailing date of the Borough's denial, partial denial, or deemed denial of the request. All appeals must be in writing; must state the grounds upon which the requester asserts that the requested records are public records; must address any grounds stated by the Borough for denying the request; and must include a copy of the request and the Borough's response, if any. *See* 65 P.S. § 67.1101(a)(1).

## **VII. Borough Notification of Third Parties on Appeal**

*Borough must notify third parties.* If records affect a legal or security interest of an employee of the borough; contain confidential, proprietary or trademarked records of a person or business entity; or are held by a contractor or vendor, the Borough must notify such parties of the appeal immediately and provide proof of that notice to the OOR within 7 business days from the date of the OOR's Official Notice of Appeal. Such notice must be made by (1) providing a copy of all documents included with the appeal to the OOR; and (2) advising that interested persons may request to participate in the appeal. *See* 65 P.S. § 67.1101(c).

## **VIII. Mediation**

The RTKL requires the OOR to establish an informal mediation process to resolve disputes under the RTKL. 65 P.S. § 67.1310(a)(6). This is a voluntary process to help parties reach a mutually agreeable settlement on records disputes before the OOR. Mediation, a facilitated conversation between the parties that can serve as a fair and efficient tool to resolve conflict, can save time and expense. When appropriate, the Borough is open to resolving RTKL disputes through the OOR's mediation process.

## **IX. Record Retention**

The Borough's record retention policy is available at 7101 Church Avenue, Pittsburgh, PA 15202.

Notwithstanding any other existing record retention policy, once a RTKL request is received, the Borough shall maintain, preserve, retain, protect, and not destroy any and all records, both electronic and hard copy, that are potentially responsive to the request until such time as the request is fulfilled and all associated appeals are resolved.

## **X. Additional Information about the RTKL**

Additional information about the RTKL, the request process, and the appeal process is available on the OOR website at <https://www.openrecords.pa.gov>.