

# THE TOWNSHIP OF CAERNARVON BERKS COUNTY, PENNSYLVANIA

## POLICIES AND PROCEDURES WITH RESPECT TO PUBLIC RECORDS

The following Policies and Procedures have been adopted by the Board of Supervisors of Caernarvon Township ("Township") in accordance with the provisions of Pennsylvania's Right to Know Law, Act 3 of 2008, effective January 1, 2009 (the "Act").

Terms defined in the Right to Know Law or in regulations adopted by Pennsylvania's Office of Open Records, shall have the same meanings when used in these Policies and Procedures.

1. Open Records Officer. Township has appointed Randall P. Miller as its Open Records Officer. Each requester of a record from Township shall deliver requests to the Open Records Officer at the following address: The Township of Caernarvon, ATT: Open Records Officer, 3226 Main Street, P.O. Box 294, Morgantown, PA 19543-0294.
2. Requests. All requests for public records of Township under this policy shall be specific in identifying and describing each public record requested. In no case shall Township be required to create a public record which does not exist or to compile, maintain, format or organize a public record in a manner in which Township does not currently compile, maintain, format or organize the public record. All requests for public records shall be submitted in writing.

The Township will not respond to oral requests except at the sole discretion of the Open Records Officer.

Requests shall be directed to the Open Records Officer at the address stated at paragraph 1 above. Requests shall contain the information on the form attached as Exhibit "A" to these Policies and Procedures, and shall include the date of the request, the name and address of the requester and a clear description of the records sought.

3. Response. Township will make a good-faith effort to provide the requested public records as promptly as feasible, and the Open Records Officer is directed to make a response within five (5) business days in accordance with the Act.

The response provided by Township shall consist of (a) approval for access to public records on the form attached hereto as Exhibit "B"; (b) a statement that additional review time is required on the form attached hereto as Exhibit "C"; or (c) denial of access to the records requested if granted in part or denied in part on the form attached hereto as Exhibit "D" and if denied in whole on the form attached hereto as Exhibit "E". If access to the public record requested is approved, the public record shall be available to access during the regular business hours of Township. The Open Records Officer shall cooperate fully with the requestor, while also taking reasonable measures to protect Township public records from the possibility of theft and/or modification. The

presence of the Open Records Officer or a designated employee is required when public records are examined and inspected at Township offices.

4. Additional Review Time. Township reserves the right to extend the time for production of records beyond 5 business days as set forth in paragraph 3(b) above and to cause a review by its Open Records Officer to be made to determine if any of the reasons for such an extension as set forth at Section 902(a) of the Act applies to the request.

If the request is being reviewed, the Notice provided by Township shall be in writing and shall include the reason for the review and the expected response date, which shall be within thirty (30) days of the Notice. If Township does not respond within thirty (30) days after having delivered a Notice that additional review time is required, the response is deemed denied. Extension of time for review of a record request will take place in the following situations:

(a) The record requested contains information which is subject to access, as well as information which is not subject to access that must be redacted prior to a grant of access. The redacted information is considered a denial as to that information;

(b) The record requires retrieval from a remote location;

(c) A timely response cannot be accomplished due to staffing limitations;

(d) A legal review is necessary to determine whether the record requested is a public record;

(e) The requester has failed to comply with Township's policy and procedure requirements; or

(f) The requester fails to pay the applicable fees.

(g) The extent or nature of the request precludes a response within the required time period.

Upon a determination that one of the factors listed above applies, Township shall send written Notice to the requester within five (5) business days of receipt of the request for public records.

Notice by the Open Records Officer of Township that additional review time is required shall be provided in the form attached hereto as Exhibit "C". That Notice shall include a statement notifying the requestor of the reason for the review and a reasonable date that a response is expected to be provided, as well as an estimate of applicable fees owed when the record becomes available. If the date of a response is expected to be provided more than thirty (30) days from the date of Notice, the request for access will be deemed denied unless the requestor has agreed in writing to a further extension of time. If the requestor agrees to an extension, the request shall be deemed denied on

the day following the date specified if Township has failed to provide a response by that date.

5. Redaction. Township reserves the right to redact (black-out) portions of certain documents if the Open Records Officer determines that redaction is necessary to prevent disclosure of information which is not subject to access.

6. Denials. Township reserves the right to decline production of records in the following cases:

(a) if the request is not made in accordance with these Policies and Procedures, or in accordance with the Act;

(b) if the Township determines that the records requested are not subject to disclosure as provided by the Act.

If access to the record request is denied, the Township shall provide a notice to the requestor, in writing, using the form attached as Exhibit "E" hereto entitled "Denial of Request to Review and/or Duplicate Caernarvon Township Records".

If the request is denied or deemed denied, the requester may file an appeal with Pennsylvania's Office of Open Records within fifteen (15) days 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 Township for delaying or denying the request.

Within thirty (30) days of the mailing date of the final determination of the appeals officer, the requester or Township may file a petition for review or other document as required by rule of court with the Court of Common Pleas for Berks County. The decision of the court shall contain findings of fact and conclusions of law based upon the evidence as a whole. The decision shall clearly and concisely explain the rationale for the decision. A petition for review by the Court shall stay the release of documents until a decision is issued.

7. Fees and Costs. Township will provide copies of documents by paper copy only (unless separate arrangements are made between the requester and the Open Records Officer or unless Township holds the record only in a different format). All copies shall be made by Township personnel. Copies will be provided at a cost of \$0.25 per page (one side). If mailing is requested, the cost of postage will be charged. If "True and Correct Certification" is requested, an additional charge of \$1.00 will be added per document certified. The cost of certification does not include a notary fee. Notary services are not regularly available at the Township office.

8. Prepayment. If the cost and fees estimated to reproduce records is expected to exceed \$100.00, Township requires that a Requester shall be required to prepay the estimated costs and fees, in immediately available funds, payable to "Caernarvon

Township". Checks shall be delivered directly to the Open Records Officer at the address of Township stated above.

9. Additional Charges. Each requester shall be liable to Township for all costs necessarily incurred by Township in complying with the document requests, in accordance with Section 1307(g) of the Act.

THIS POLICY SHALL BE AVAILABLE FOR REVIEW AT TOWNSHIP'S OFFICE DURING NORMAL BUSINESS HOURS.

**ADOPTED BY THE BOARD OF THE BOARD OF SUPERVISORS  
OF CAERNARVON TOWNSHIP ON JANUARY 5, 2009.**

**EXHIBIT "A"**

**CAERNARVON TOWNSHIP  
(LETTERHEAD)**

**Right-To-Know Request Form**

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

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

NAME OF REQUESTOR: \_\_\_\_\_

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

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

TELEPHONE (Optional): \_\_\_\_\_

RECORDS REQUESTED:

*\*Provide as much specific detail as possible so the agency can identify the information.*

DO YOU WANT COPIES?      YES or NO

DO YOU WANT TO INSPECT THE RECORDS?      YES or NO

DO YOU WANT CERTIFIED COPIES OF RECORDS?      YES or NO

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RIGHT-TO-KNOW OFFICER NAME:      Randall P. Miller  
TITLE:      Township Secretary  
BUSINESS ADDRESS:      Caernarvon Township  
   P.O. Box 294  
   Morgantown, PA 19543  
BUSINESS TELEPHONE:      610-286-1010

DATE RECEIVED BY THE AGENCY: \_\_\_\_\_

AGENCY FIVE (5)-DAY RESPONSE DUE: \_\_\_\_\_

*\*\*Public bodies may fill anonymous verbal or written requests. If the requestor 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"

CAERNARVON TOWNSHIP  
(LETTERHEAD)

Right-To-Know Response Form

Granted Request

Date : \_\_\_\_\_

Citizen Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Dear [*Citizen*],

Thank you for writing to [***Name of Public Body or Agency***] with your request for information pursuant to the Pennsylvania Right- To-Know law.

On [***Insert date received by agency***], you requested documents that [***insert description of information requested, or restate their request***]. Your request is granted and the requested responsive documents are enclosed.

Very truly yours,

Open Records Officer  
Caernarvon Township

RIGHT-TO-KNOW OFFICER NAME:	Randall P. Miller
TITLE:	Township Secretary
BUSINESS ADDRESS:	Caernarvon Township P.O. Box 294 Morgantown, PA 19543
BUSINESS TELEPHONE:	610-286-1010

**EXHIBIT "C"**

**CAERNARVON TOWNSHIP  
(LETTERHEAD)**

**Right-To-Know Response Form**

**Notice Extending Response Time by Thirty (30) Days**

Date: \_\_\_\_\_

TO: Requester

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

RE: Record Request Dated \_\_\_\_\_, 20\_\_  
(Township No.) \_\_\_\_\_  
\_\_\_\_\_

**NOTICE**

The undersigned is the Public Record Officer appointed by the Board of Supervisors of Caernarvon Township ("Township").

The Township acknowledges receipt of a written request for access and/or copies of records. The record request was received by the undersigned, the Public Record Officer of the Township on \_\_\_\_\_, 20\_\_.

The request for access to public records and/or copies of public records is being reviewed and in response to you the record request will not be possible within five (5) business days of receipt of the record request. The Township will respond within thirty (30) days of the date of this Notice. This Notice is provided under Section 901(b) of the Right to Know Law, Senate Bill 1, Act 3 of 2008 (the "Act").

The reason for the extension of time in order to comply with the record request is as follows:

1.  The request for access requires redaction of a record in accordance with Section 706 of the Act.
2.  The request for access requires retrieval of a record stored in a remote location.
3.  A timely response to the request for access cannot be accomplished due to bona fide and specified staffing limitations, specifically the following:

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4.  A legal review by the Township's solicitor is necessary to determine whether the record is subject to access under the Act.
5.  You have not complied with the policies of the Township regarding the access to records. In order for the request to be processed you must do the following:
- 
- 
6.  You have not paid all applicable fees required by the Township pursuant to policies established in accordance with the Act. The following fees are due:
- 
7.  The extent or nature of the request is such that a response within 5 days is impractical or impossible.

If you have any questions concerning this Notice, please contact the undersigned between the hours of 8:30 a.m. and 4:30 p.m. at 610-286-1010 or in person at the address stated above.

Very truly yours,

Open Records Officer  
Caernarvon Township

RIGHT-TO-KNOW OFFICER NAME: Randall P. Miller  
TITLE: Township Secretary  
BUSINESS ADDRESS: Caernarvon Township  
P.O. Box 294  
Morgantown, PA 19543  
BUSINESS TELEPHONE: 610-286-1010

EXHIBIT "D"

CAERNARVON TOWNSHIP  
(LETTERHEAD)

Right-To-Know Response Form

Granted in Part/Denied in Part

Date: \_\_\_\_\_  
Citizen Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_

Dear [**Citizen**],

Thank you for writing to [**Public Body**] with your request for information pursuant to the Pennsylvania Right-To-Know law.

On [**date received by agency**], you requested [**description of information requested, or restate their request**]. Your request is granted in part and denied in part as follows. Your documents are enclosed.

However, the [**Agency**] has withheld information that is exempt from disclosure by law. We redacted [**Describe redacted information: Examples....social security number, academic transcripts, medical information, or other exemptions**] as outlined in Section 708(b).

This information is exempt from disclosure under [**CITE applicable section of the law. If precluded from release by other state or federal law, rule or regulation, you must cite to that legal authority.**]

You have a right to appeal this denial of information in writing to Terry Mutchler, Executive Director, Office of Open Records, Commonwealth Keystone Building, 400 North Street, 4<sup>th</sup> Floor, Harrisburg, PA 17120.

[**For Criminal Records**] to the District Attorney of the County, Name, Address and Telephone Number. [**For Legislative Records**]: Contact information

If you choose to file an appeal you must do so within 15 business days of the mailing date of the agency's response, as outlined in Section 1101. If you have further

questions, please call [**Right-To-Know Officer**]. Please be advised that this correspondence will serve to close this record with our office as permitted by law.

Very truly yours,

Open Records Officer  
Caernarvon Township

RIGHT-TO-KNOW OFFICER NAME: Randall P. Miller  
TITLE: Township Secretary  
BUSINESS ADDRESS: Caernarvon Township  
P.O. Box 294  
Morgantown, PA 19543  
  
BUSINESS TELEPHONE: 610-286-1010

**EXHIBIT "E"**

**CAERNARVON TOWNSHIP  
(LETTERHEAD)**

**Right-To-Know Response Form**

**Denial of Request to Review and/or Duplicate Township Records**

Date: \_\_\_\_\_

TO: Requester

NAME:

ADDRESS:

RE: Record Request Dated \_\_\_\_\_, 20\_\_  
(Township No.) \_\_\_\_\_  
\_\_\_\_\_

**NOTICE**

The undersigned is the Public Record Officer appointed by the Board of Supervisors of Caernarvon Township ("Township").

The Township acknowledges receipt of a written request for access and/or copies of records. The record request was received by the undersigned, the Public Record Officer of the Township on \_\_\_\_\_, 20\_\_.

The Township has determined that your request to access the following records is denied: [list specific records/documents which will not be produced:]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The basis for the denial of access is set forth on Exhibit "A" attached to this Notice and incorporated by reference.

You have the right to appeal the decision of the Township denying access to the records stated above to the Pennsylvania Office of Open Records.

In order to appeal you must do the following within fifteen (15) days of the date of this Notice:

1. Send notice of your appeal to the following address:

The Pennsylvania Office of Open Records  
ATT: Terry Mutchler, Executive Director  
400 North Street, 4<sup>th</sup> Floor  
Harrisburg, PA 17120

The appeal shall state the reasons for your appeal, including why you believe the record or records to which the Township has denied access constitute "public records". Your appeal should address the reasons stated by the Township for denying your request for the specified records;

2. Send a copy of your notice of appeal, together with all supporting materials, to the following address:

Caernarvon Township  
ATT: Open Records Officer  
3226 Main Street, P.O. Box 294  
Morgantown, PA 19543-0294

Very truly yours,

CAERNARVON TOWNSHIP

Open Records Officer