

Philadelphia Land Bank
Open Records Policy

Effective February 12, 2015
Last updated February 28, 2019

The Philadelphia Land Bank (the "Land Bank") has adopted a policy to comply with the Commonwealth's Act 3 of 2008, 65 P.S. §§ 67.101 *et seq.*, commonly known as the "Right to Know Law." With certain exceptions, members of the public have the right to inspect and/or copy such records upon request.

1. Definitions

- a. **Right to Know Law (or Open Records Law).** Act 3 of 2008, 65 P.S. §§ 67.101 *et seq.*, commonly known as the Right to Know Law ("Law").
- b. **Business day.** Monday through Friday during regular business hours¹, except those days when the offices of the Land Bank are closed for all or part of a day:
 - i. due to a federal/state/city holiday;
 - ii. due to natural or other disaster; or
 - iii. due to the request or direction of local, state, or federal law enforcement agencies or officials.
- c. **Public Record.** Any document that satisfies the general definition of "public record" set forth in the Law and does not fall within any of the exceptions set forth therein, as the definition and exceptions are amended from time to time and as the definition and exceptions are interpreted by state, federal and/or local courts.
- d. **Open Records Officer.** Any official or employee of the Land Bank who is officially assigned responsibility for receiving, tracking and responding to requests for information under the Right to Know Law. The Land Bank may designate a Deputy or Secondary Open Records Officer to act in the absence of an Open Records Officer.
- e. **Requester.** A person who requests a record under the Right to Know Law.
- f. **State Office of Open Records.** The State Office, under the Department of Economic and Community Development, as explained in §1310 of the Right to Know Law. The Office of Open Records shall be responsible for many duties, which include (but are not limited to): issuing advisory opinions, training agencies and public employees, assigning appeals officers to review decisions and conducting a biannual review of fees allowed under the Law.

¹ 8:30 AM – 5:00 PM

2. Open Records Officer

The Open Records Officer for the Land Bank is:

Steve Cusano, Esq.
Senior Counsel
Philadelphia Land Bank
1234 Market Street, 16th Floor
Philadelphia, PA 19107
215-448-3130
steve.cusano@phila.gov

The Secondary Open Records Officer for the Land Bank is:

Andrea Saah, Esq
Staff Attorney
Philadelphia Land Bank
1234 Market Street, 16th Floor
Philadelphia, PA 19107
215-448-2122
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Please note that the City of Philadelphia and some independent elected officials, including the District Attorney's Office and City Controller's Office, may have their own separate and distinct policies. You should contact their respective websites for information specific to their offices, including information concerning their respective open records officers.

3. Procedure

The Law requires that the Land Bank act upon each non-anonymous written request when such request is made in person, by mail, by facsimile or by e-mail. The Law does not require that the Land Bank act upon an oral request, and the Land Bank shall refuse to accept oral requests. Furthermore, the Law does not require that the Land Bank act upon an anonymous request, and the Land Bank will refuse to honor an anonymous request.

Pursuant to the Law, the State Office of Open Records has created and published on its website a standard statewide form which must be accepted by the Land Bank for the filing of a request. (www.openrecords.pa.gov/Documents/RTKL/RTKRequestForm.pdf). Effective February 1, 2012, the Land Bank will require the standard statewide form be used for the submission of Right to Know requests, and will not consider a request to be a written request pursuant to the Right to Know Law unless the request is submitted on or with the standard statewide form. Beginning February 1, 2012, the Land Bank will consider any request not submitted on or with the standard statewide form to be an informal request not subject to the Right to Know Law². If a requester submits a request on or with the standard

² The Land Bank reserves the right, at its sole discretion, to use the Right to Know Law as guidance in responding to informal requests for records and/or information.

statewide form after submitting an informal request for the same (or similar) records, the Land Bank will consider the informal request to have been withdrawn. The Land Bank reserves the right, at its sole discretion, to require a written request pursuant to the Right to Know Law before releasing records. A copy of the standard statewide form appears at the end of this policy.

The Law sets forth various specifications for the contents of a written request. To qualify as a written request under the Right to Know Law and the Land Bank Open Records Policy the request must (a) be directed to the appropriate Open Records Officer designated above, (b) be submitted on or with the standard statewide form, and (c) contain, at a minimum, the following information:

- i. name of requester;
- ii. address of requester; and
- iii. records being sought, identified, or described with sufficient specificity to allow the Land Bank to ascertain which records are being requested.

Under the Law, the Land Bank has a duty to make a good faith effort to determine if the record(s) requested is a public record and to respond as promptly as possible under the circumstances existing at the time of the request; this time shall not exceed five (5) business days from the date the request is received by the Land Bank's Open Records Officer. The Law provides that either a final or interim response be provided to the requester within five (5) business days from the date of receipt by the Land Bank. If the Land Bank fails to respond within this five (5) day time period, the Open Records Request is deemed denied.

The Law and the Land Bank's policy contemplate that requesters will receive a response within five (5) business days. The Law, however, does provide the Land Bank with specific reasons that may be invoked to receive a single extension of time which shall not exceed thirty (30) calendar days. If an extension is invoked and no response is provided to the requester within the thirty (30) day time period, the Open Records Request is deemed denied. Additionally, should the Land Bank notify the requester it needs more than the maximum thirty (30) day extension, the request is 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 Land Bank has not provided a response by that date.

The Land Bank's final response to a request will do one of the following:

- i. grant the request;
- ii. deny the request;
- iii. grant the request in part and deny the request in part; or
- iv. grant the request and redact part of the information provided pursuant to the Law

and/or other applicable federal, state and local law.

4. Appeals of Denied Requests

If a request for access to a record is denied (in whole or in part) or deemed denied, the requester may file an appeal with the State Office of Open Records within fifteen (15) business days of the mailing date of the Land Bank's denial. The appeal should state the grounds upon which the requester asserts the items requested are public records under the Law; the appeal shall also address any grounds stated by the Land Bank for denying the request. Appeals to the State Office of Open Records should be directed to the following address: Office of Open Records, Commonwealth of Pennsylvania, 333 Market Street, 16th Floor, Harrisburg, PA 17101-2234.

Unless the requester agrees otherwise, the State Office of Open Records Appeals Officer shall make a final determination which shall be mailed to the requester and the Land Bank within thirty (30) days of receipt of the appeal. Should the Appeals Officer fail to issue a ruling within thirty (30) days, the appeal is deemed denied.

Before a final determination is issued, a hearing may be held. The determination by the Appeals Officer shall be a final order. The Appeals Officer shall provide a written explanation of the reasons for the decision to the requester and the Land Bank.

Within thirty (30) days of the mailing date of the final determination of the Appeals Officer, a requester or the Land Bank may file a petition for review or other document(s) as required by rule of court with the Philadelphia Court of Common Pleas.

5. Fees and Charges

Fees for duplication of records have been established and posted by the State Office of Open Records. The Land Bank will charge fees consistent with the State Office of Open Records regulations.

The Land Bank reserves the right to impose additional fees if it incurs costs for complying with a request pursuant to the Right to Know Law; such additional fees, when charged, must be reasonable. This includes, but is not limited to, fees for enhanced electronic access and certified copies of documents.

6. Written Policies and Regulations

The Land Bank shall retain the discretion and authority to adopt any other written policies that are consistent with the Right to Know Law, as amended from time to time, that it deems to be necessary or prudent.



Standard Right-to-Know Law Request Form

Good communication is vital in the RTKL process. Complete this form thoroughly and retain a copy; it is required should an appeal be necessary. You have 15 business days to appeal after a request is denied or deemed denied.

SUBMITTED TO AGENCY NAME: _____ (Attn: AORO)

Date of Request: _____ Submitted via: Email U.S. Mail Fax In Person

PERSON MAKING REQUEST:

Name: _____ Company (if applicable): _____

Mailing Address: _____

City: _____ State: _____ Zip: _____ Email: _____

Telephone: _____ Fax: _____

How do you prefer to be contacted if the agency has questions? Telephone Email U.S. Mail

RECORDS REQUESTED: *Be clear and concise. Provide as much specific detail as possible, ideally including subject matter, time frame, and type of record or party names. Use additional sheets if necessary. RTKL requests should seek records, not ask questions. Requesters are not required to explain why the records are sought or the intended use of the records unless otherwise required by law.*

DO YOU WANT COPIES? Yes, electronic copies preferred if available
 Yes, printed copies preferred
 No, in-person inspection of records preferred (*may request copies later*)

Do you want **certified copies**? Yes (*may be subject to additional costs*) No
RTKL requests may require payment or prepayment of fees. See the [Official RTKL Fee Schedule](#) for more details.

Please notify me if fees associated with this request will be more than \$100 (or) \$_____.

ITEMS BELOW THIS LINE FOR AGENCY USE ONLY

Tracking: _____ Date Received: _____ Response Due (5 bus. days): _____

30-Day Ext.? Yes No (If Yes, Final Due Date: _____) Actual Response Date: _____

Request was: Granted Partially Granted & Denied Denied Cost to Requester: \$_____

Appropriate third parties notified and given an opportunity to object to the release of requested records.