

January 24, 2022

Via email only

Douglas W. Chew

dchew@co.westmoreland.pa.us

RE: Request for Advisory Opinion

Dear Mr. Chew:

The Office of Open Records (“OOR”) is in receipt of your request for an Advisory Opinion concerning whether “an elected official ha[s] additional authority to request documents that would otherwise not be subject to public review by a non-elected citizen in that municipality.”

The OOR respectfully declines to issue an Advisory Opinion in this matter, as the matter is well-settled. The Right-to-Know Law governs access to *public* records, and as long as the person requesting those records meets the definition of “requester” under that law, “[t]he status of the individual requesting the record and the reason for the request ... are irrelevant as to whether a document must be made accessible.” *Hunsicker v. Pa. State Police*, 93 A.3d 911 (Pa. Commw. Ct. 2014); *see also* 65 P.S. § 67.102 (defining “requester” as “a legal resident of the United States”). As a result, your status as an elected official does not broaden your ability to obtain records under the Right-to-Know Law, and the Westmoreland County Housing Authority (“WCHA”) may treat you as any other person that meets the definition of “requester” under the Right-to-Know Law.

The OOR is unaware of any other statute or law that would provide you with greater access to the records you seek. To the extent that you have questions about that issue or the scope of powers set forth by the County Code, you may wish to seek the advice of legal counsel.

Sincerely,

/s/ Kyle Applegate

Kyle Applegate
Chief Counsel

Cc: Elizabeth Wagenseller, Executive Director
Nathanael Byerly, Deputy Director

From: Douglas Chew
To: [DC, OpenRecords](#)
Subject: Request for Advisory Opinion
Date: Friday, January 21, 2022 9:40:22 PM
Attachments: [county hierarchy.png](#)

January 21, 2022

Commonwealth of Pennsylvania
Executive Director
Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234

RE: Request for Advisory Opinion, Elected office RTK requests

Dear Executive Director:

I hope that your 2022 is off to a great start.

General Statement of Question

I am writing to request an Advisory Opinion regarding an elected official requesting documents from a public authority authorized by ordinance from the governmental body in which the elected official serves. Under the Pennsylvania Right to Know act, there is information that is not subject to public review. The specific question of law is, "Does an elected official have additional authority to request documents that would otherwise not be subject to public review by a non-elected citizen in that municipality?" I feel this is related to the Pennsylvania Right to Know act based upon materials selected, but if there are other acts and statutes that describe my privileges as an elected official, please include those in the reply.

Facts as I know them

The municipality is Westmoreland County. The elected official is I, a county commissioner in Westmoreland County, certified elected by the county election board in the election of 2019. My term expires the first Monday in January of 2024. The public authority is the Westmoreland County Housing Authority (WCHA), which was created by Westmoreland County ordinance about 75 years ago. The Board of Directors of the WCHA are all appointed solely by majority vote of the Westmoreland County Board of Commissioners, on which I serve as Vice-Chairman. I am planning to request several items, some of which are invoices and bills from pest services, but others are minutes from executive sessions as they pertain to WCHA board or staff discussions related to handling pest infestations in public housing. I am in the process of planning this request, and I seek the Advisory Opinion to best understand the law and my protections.

Litigation Status

This matter is not the subject of any court proceedings in any court at any level. This matter is not pending before the Office of Open Records. This matter has arisen in the course of my requesting information for my use as County Commissioner, not for use by the public.

Please respond to me as soon as possible and in the timeframe set forth by the guidelines of the Advisory Opinion provision of your office.

If there are any questions or clarifications required, please don't hesitate to contact me.

Very Truly Yours,

/s/ Douglas W. Chew

Douglas W. Chew
Vice-Chairman
Board of Commissioners
Westmoreland County

2 North Main Street
Greensburg, PA 15601
724-830-3102 (office)
dchew@co.westmoreland.pa.us
Call 2-1-1 for Social Services. Help Starts Here.

Westmoreland County Organization Chart

TAXPAYERS

Commissioners

County Solicitor

Chief Clerk

Industrial
Development Corp.

Board of
Assessment Appeals

Airport Authority

Redevelopment
Authority

Housing Authority

Transit Authority

Community College

Land Bank

Municipal Authority

AAA

CYS

BHDS

Board of
Commissioners
Statutory Boards

Prison Board

Juvenile Detention
Board

Salary Board

Retirement Board

Election Board

Public Works

Parks

Roads & Bridges

Title 75

Weights &
Measures

Financial
Administration

Budgeting

Cash Management

Purchasing

General Services

Planning &
Community
Development

Planning

Community
Development

Home Investment

Public Safety

Park Police

911 Surcharge

Juvenile Detention

Juvenile Shelter

Prison

Human Services

Westmoreland
Manor

AAA

CYS

BH/DS

Health Choices

Information Systems

County Information
Systems

Records
Management

Election Bureau

Switchboard

Courts

Court
Administration

Adult Probation

Juvenile Probation

Domestic Relations

Jury Service Center

District Judges

Law Library

Authorities appointed by the Commissioners to provide specified government services as an extension of County Government