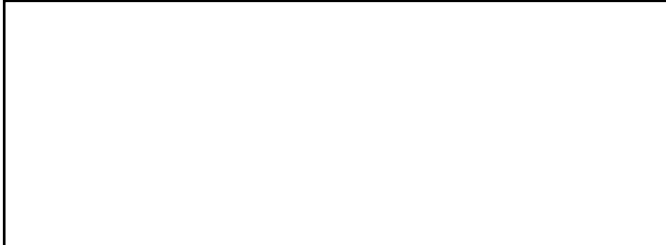
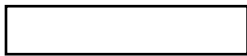




December 1, 2023



RE: Right-to-Know Law Request



On October 25, 2023, the Borough of Forest Hills (“Borough”) Open Records Officer received your record request dated the same date, seeking the following records pursuant to the Pennsylvania Right-to-Know Law, 65 P.S. §67.101, *et seq.* (“RTKL”):

- 1. Please advise if the below address has any OPEN/ PENDING/ EXPIRED Permits and demolition permits that need attention and any fees due currently.***
- 2. Also advise if there are any open Code Violation or fines due that need attention currently.***
- 3. Advise if there are any unrecorded liens/fines/ special assessments due***

Address: 128 Elmore Rd, Pittsburgh, PA 15221, USA

Parcel: 0299-K-00120-0000-00

Owner: KEHLER ALANNA MAY

On November 1, 2023, pursuant to Section 902 of the RTKL, 65 P.S. § 67.902, the Borough notified you that it requires an extension of time to conduct a legal review to determine whether your request pertains to public records subject to access under the RTKL because a timely response to the request for access could not be accomplished due to bona fide and specific staffing limitations, because the extent or nature of the request precludes a response within the required time period, and possibly to redact responsive records in accordance with Section 706 of the RTKL, 65 P.S. §67.706.

Following its review of your request, the Borough has determined that your request pertains to records or information subject to access, as well as records or information not subject to access under the RTKL. Consequently, your request is granted in part and denied in part, and a single-page responsive record is enclosed. No fees are due at this time because this record is available in an electronic format.

Under the RTKL, the Borough has no obligation to answer questions, and an inquiry seeking information rather than records does not trigger a response under the RTKL. *See* 65 P.S.

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§67.703; *Day v. Clarion University of Pa.*, OOR Dkt. No. AP 2015-2179 (Dec. 7, 2015); *Beranty v. W. Franklin Twp.*, OOR Dkt. No. AP 2017-2191 (Jan. 4, 2013). Consequently, to the extent your request seeks answers to questions as opposed to a request for records, it is denied.

Specifically, your request identified as item 1 above for “OPEN/PENDING/EXPIRED Permits and demolition permits” is granted in part and denied in part. Specifically, item 1 is denied to the extent certain responsive records constitute building permit applications, building plans and specifications, inspection reports, or similar documents which are exempt from disclosure pursuant to Section 403.85(e) of the Uniform Construction Code, 34 Pa. Code §403.85(e) (“UCC.”). Pursuant to the UCC, the Borough “may prohibit [the] release of applications received, building plans and specifications, inspection reports and similar documents... under... the Right-to-Know Law.” 34 Pa. Code §403.85(e); *see Scott v. City of Phila. Dep’t of Licenses and Inspections*, OOR Dkt. No. AP 2018-1166; *Schranghamer v. Falls Twp.*, OOR Dkt. No. AP 2016-0348 (Mar. 16, 2016) (acknowledging that building permit applications are protected by the UCC). The UCC's implementing regulations specifically provide that the UCC applies “to every building or structure ... on or after April 9, 2004, and all existing structures that are not legally occupied.” 34 Pa. Code § 403.1(1). Pursuant to Section 102 of the RTKL, any record that is “exempt from being disclosed under any Federal or State law or regulation or judicial order or decree” is not a public record. 65 P.S. § 67.102; *see also Walsh v. Pa. Dep’t of Labor and Indust.*, OOR Dkt. No. AP 2021-0750 (June 8, 2021) (building applications and building plans may be withheld under the UCC and accordingly are not public records under the RTKL). Consequently, to the extent that any records responsive to your request that were provided as part of a building application or constitute building plans, inspection reports, or other similar documents, your request is denied.

Your request identified as item 2 above for “open code violations” of the designated property is denied because the records requested are exempt from disclosure as noncriminal investigative records pursuant to Section 708(b)(17) of the RTKL. 65 P.S. §67.708(b)(17). Pursuant to Section 708(b)(17) of the RTKL records relating to a non-criminal investigation, including investigations into possible violations of local ordinances, are exempt from disclosure. 65 P.S. §67.708(b)(17). Section 708(b)(17) of the RTKL exempts from disclosure “[a] record of an agency relating to a noncriminal investigation, including... investigation materials, notes, correspondence, and reports.” 65 P.S. §67.708(b)(17). The Borough is incorporated under the Pennsylvania Borough Code, 8 Pa.C.S. §§101 *et seq.* (“Borough Code”). Pursuant to the Borough Code, the Borough is vested with the power to regulate the streets, sewers, common grounds, sidewalks, curbs, gutters, culverts, and drains, and the heights, grades, widths, slopes and their construction within the Borough. *See* 8 Pa. C.S. §1202(12). The OOR has acknowledged that boroughs, pursuant to the Borough Code, have legislatively granted fact-finding powers to investigate violations of their ordinances. *Lowe v. Duryea Borough*, OOR Dkt. No. AP 2017-0542 (April 21, 2017); *see e.g. Deeter v. Yardley Borough*, OOR Dkt. No. AP 2019-1883 (Dec. 16, 2019) (notices of violation of the municipality’s code are exempt from disclosure because they are generated only after an alleged violation is investigated by the municipality and determined to have merits). Consequently, any records pertaining to open building, zoning, or other code violations concerning the specified property are exempt from disclosure under the RTKL.

Finally, your request identified as item 3 above for “unrecorded liens/fines/special assessments due” of the designated property is denied because following a thorough and good

faith review of its files, no responsive records exist within the possession, custody, or control of the Borough. See 65 P.S. §67.705; *Buehl v. Pa. Dep't of Corr.*, OOR Dkt. No. AP 2009-1141 (Jan. 27, 2010); *Rowles v. Rice Twp.*, OOR Dkt. No. AP 2014-0729 (May 30, 2014). If you are seeking a no-lien letter, you must contact the Borough finance department at secretary@foresthillspa.com.

You have a right to appeal any denial of information in writing to the Office of Open Records, 333 Market Street, 16th Floor, Harrisburg, PA 17101. If you choose to file an appeal you must do so within fifteen business days of the mailing date of this response as outlined in Section 1101 of the RTKL, 65 P.S. § 67.1101.

Please be advised that this correspondence will serve to close this record with the Borough as permitted by law.

Best regards,



Steven J. Morus

Forest Hills Borough Open Records Officer

cc: Stephen L. Korbelt, Esquire, Borough Solicitor

Borough of Forest Hills

Building - - - Construction

PERMIT

The Application with Plans and Specifications for this Permit are on file at Municipal Building

PERMIT No. 96-1624

DATE OF ISSUE 11-25-96

Type of Construction REAR ADDITION

Location of Construction 128 ELMORE RD.

This Permit Authorization SHALL BE DISPLAYED on the Site of Construction, so ALL MAY VIEW until removed by the Borough Building Inspector.

[Signature]