

HOW PHILLY WORKS

Your “Right to Know” Information About Your Government

The Nutter administration is increasingly taking shots from the media for withholding documents from the public – most recently, records related to the deadly Market Street building collapse.

But is the *Daily News*’ cartoon cover of “Nutter the Secret Spy” on the mark? Did the mayor make himself an easy target because he promised to be the champion of transparency? Is the administration, in resisting the release of certain records, acting in the best interest of the city?

These questions will inevitably come up when the book is written on Nutter’s legacy. In the meantime, this edition of **HOW PHILLY WORKS** focuses on a more enduring issue: how you can go about getting information that’s not readily available – not just from the current city administration, but from future administrations.

It’s part of Seventy’s continuing crusade to keep citizens informed about how to navigate their government.

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Now I’m interested: Show me the Daily News cartoon!

You can see it [here](#), along with a detailed [article](#) about efforts by the media to get public records (some of which were previously made available) from the Nutter administration on sheriff’s sales, city grant recipients, property tax assessments and legal settlements, in addition to the building collapse.

I’ve always preferred an open door to a closed one. How can I gain access to these records?

We’ll get there, though it’s important to understand first that transparency shouldn’t matter because we hate secrets. Access to government records is an important tool to understanding how decisions relating to spending taxpayers’ dollars are made – and to holding the decision-makers accountable. The same principle applies to all levels of government, from the U.S. government down to small county governments.

Personally, I think the public’s right to know trumps the government’s right to withhold.

That’s what former Governor Ed Rendell thought when he signed Pennsylvania’s Right-to-Know Act (RTK) in 2008. The law presumes that, with certain exemptions, all information is public and that it’s the government’s burden to prove otherwise. Before 2008, the burden was on the person requesting the information to show why it should be available to the public.

I should have known there was a catch. What are the exemptions?

Some big ones are when information may endanger people or property. Personal identification information (such as medical history, social security number, personal e-mail addresses and phone numbers) and personnel records of public employees are also exempt. You can read the entire list of 30 exemptions [here](#).

Does the mayor say information he doesn't make public falls under one of the exemptions?

At least with the Market Street building, his lawyer (the City Solicitor) said release of certain documents could compromise an ongoing grand jury investigation.

Is that true?

The Right-to-Know law does exempt records of an agency relating to or resulting in a criminal investigation. What's interesting is that the District Attorney's office conducting the investigation contends the administration was not told to keep records private. But decisions to withhold documents are not always so clear cut. The mayor may have believed he was protecting the liability of taxpayers for the deadly collapse by not releasing documents and making an already bad situation even worse.

I'm not an investigative journalist. If the media can't get records, how can I?

The media is no more entitled to see documents than you are. Reporters are accustomed to filing RTK requests. You may not be, but we're about to tell you how to do it in Philadelphia. Similar procedures apply if you live in other PA counties, which are all covered under PA's RTK law.

So if I want to request a record, how should I go about it?

Obviously you have to first make sure the record you want is not already accessible. (That's not always easy to do on city government's website. You may have to make some calls to the city department you believe has the information you want.) If not, you should then go to the Pennsylvania's Office of Open Records [website](#) to see if you are entitled to the information – or if it falls under one of the exemptions we told you about earlier.

And if the record I'm seeking isn't exempt, where should I direct my request?

Unlike the state, Philly doesn't have a central Office of Open Records. That means you'll need to address your request to the Open Records Officer of a specific city department or elected official's office. You can find the directory in [Philadelphia's Open Records Policy](#). After you complete the [standardized form](#), deliver it to the appropriate Open Records Officer in person or send it via email, mail, or fax.

I don't see the office or department I'm looking for. Now what should I do?

In that case, you should send your request to the Open Records Officer at the City of Philadelphia's Law Department. This contact information is located at the end of the directory in the city's [Open Records Policy](#).

Do you have any advice to increase my odds of getting my request granted?

Like you did in grade school, make sure to put your name on it because anonymous requests are refused! Just as important, make your request as specific as possible, although this may be difficult if you're not even certain what records exist. The state Office of Open Records recommends you pick up the phone and ask (politely!) about the records – if you're lucky, the city department might grant you access without the RTK process. Otherwise, you'll have to continue with this procedure.

I want the information sooner rather than later. How long is this going to take?

It depends. The Open Records Officer must send you a written response within five business days of receiving your inquiry that either fully or partially grants your request, grants it although with redacted information (meaning that certain confidential information is taken out) or denies your request altogether. Be prepared that you could not hear back at all. If this happens, your request is deemed denied. The officer can also choose to ask for a 30-day extension to satisfy the request. You'll be notified if

this happens, but be sure to acknowledge the extension in writing; if you don't, your request is deemed denied.

Aren't these hurdles essentially designed to avoid granting a request?

The process to acquire records, cumbersome as it is, is designed to allow government agencies adequate time to grant RTK requests while fulfilling their other functions. The web-based information provider AxisPhilly is testing the waters by submitting requests to 39 city departments seeking detailed information on how RTK requests are handled. The Law Department (on behalf of all the departments) asked for a 30-day extension – which ends tomorrow. We'll let you know what happens.

I'm serious. What incentive does the government have to grant a RTK request?

There's the fallout when the media doesn't get what it wants or what it thinks the public deserves – and believes the government is purposefully dragging its feet. Or if a member of the public whose request is denied makes a big stink about it. No government office likes to be tarnished with the accusation that it is hiding public information.

What are my options if the city denies my request?

If your request is actually denied, or if you don't receive a response (after either the initial five days or the 30-day extension), Terry Mutchler, Executive Director of the state's Office of Open Records, recommends waiting three extra days for snail mail. If you've still heard nothing, you can [appeal the decision to the PA Office of Open Records](#) within 15 business days of receiving the denial (or the date you should have received it). The state has to respond in writing within 30 days with a final, binding decision.

Do I have other avenues to get information if the state denies my appeal?

You do. You can file a petition for review in Commonwealth Court or your county's Court of Common Pleas within 30 days of receiving the state's decision. The city can do the same thing in order to keep records out of the public eye. Your case could make its way all the way up to the Pennsylvania Supreme Court. Be sure to keep copies of any documents you submit and receive during the process!

Is it even worth all this trouble? There must be fees involved.

That's your call depending on how much you want to see what the government is holding back. Appeals of decisions to withhold information can be successful. The advocacy group Parents United for Public Education won an appeal earlier this year of the School District of Philadelphia's refusal to release a list of public schools targeted for closure. The financial cost depends on what you're requesting – black and white photocopies cost up to \$0.25 per page. Philadelphia follows the state's regulation fees listed [here](#).

I still don't know if I'll ever try my luck with RTK.

It may be a journalist's job to use RTK in pursuing information for a story, but it's your right and civic responsibility to hold your government accountable in spite of a burdensome procedure or uncooperative bureaucracy. You would never lay down your right to vote. Why would you not exercise your right to information?

*If you thought this **HOW PHILLY WORKS** was useful, please help us continue this series by [donating](#) today! (We are a non-partisan non-profit that does not accept government money – your support is truly appreciated!)*

*As always, if you have any questions or ideas for future **HOW PHILLY WORKS**, please send your ideas to futureofthecity@seventy.org.*