



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL

April 19, 2023

VIA EMAIL: JLawrence@PAHouseGOP.com

The Honorable John Lawrence
PA House of Representatives
1 Commerce Blvd., Suite 200
West Grove, PA 19390

Re: RTKL-2023-37

Dear Representative Lawrence:



On April 18, 2023, the open-records officer of the Department of Community and Economic Development (the "Department") received your written request for information. The Department is responding to your request under the Pennsylvania Right-To-Know Law, 65 P.S. § 67.101 *et seq.* ("RTKL"). You asked for "Copies of the 'Two Credible Plans' provided by Chester mayor Kirkland to Receiver Michael Doweary as referenced in the April 17, 2023 DV Journal article entitled 'Receiver: Chester's Dire Financial Straits May Lead to Disincorporation.'"

The Department does not have the records that you request in its possession or under its custody or control. Pursuant to the Office of Open Records Final Decision in *Jenkins v. Pennsylvania Department of State*, OOR Dkt. AP 2009-065, it should be noted that: "It is not a denial of access when an agency does not possess records and [there is no] legal obligation to obtain them (*see, e.g.,* Section 67.506 (d)(1))."

In accordance with Section 67.502(b)(1) of the RTKL, I am forwarding your request to the Agency Open Records Officer for the Receiver for the City of Chester, as that agency may have documents responsive to your request, and copying the agency on this response. However, no RTKL rights accrue to you against that agency until such time as you make a request directly to that agency that is: 1) in writing; 2) states that it is being made pursuant to the RTKL; and, 3) is addressed to the Office of the Receiver for the City of Chester, as follows:

Office of the Receiver for the City of Chester
Email: info@chesterreceivership.com

You have a right to appeal this denial in writing to Liz Gerloff Wagenseller, Executive Director, Office of Open Records (OOR), 333 Market Street, 16th Floor, Harrisburg, Pennsylvania 17101. If you choose to file an appeal, you must do so within 15 business days of the mailing date of this response and send to the OOR: 1) this response; 2) your request; and 3) the reason why you think the agency is incorrect in its response. Also, the OOR has an appeal form available on the OOR website at: <https://www.openrecords.pa.gov/Appeals/AppealForm.cfm>.

Should you have any questions regarding this letter, please contact Rob Teplitz at 717-
or 

Sincerely,

/s/ Lori K. Irwin
Lori K. Irwin, Esq.
Chief Counsel

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AGENCY ATTESTATION OF NONEXISTENCE OF RECORD

Agency: Department of Community and Economic Development

Name of Requestor: Representative John Lawrence

RTKL Request: 2023-37

Date: April 19, 2023

Records Requested: "Copies of the 'Two Credible Plans' provided by Chester mayor Kirkland to Receiver Michael Dowearly as referenced in the April 17, 2023 DV Journal article entitled 'Receiver: Chester's Dire Financial Straits May Lead to Disincorporation.'"

Attestation Pursuant to 42 Pa. C.S. § 6103(b), Relating to Lack of a Record.

I, Eileen Quinn, am the Open Records Officer for the Department of Community and Economic Development, and I make this statement under penalty of perjury as more fully set forth in 18 Pa. C.S. § 4904. Pursuant to 65 P.S. § 67.502(a)(1), as the Agency Open Records Officer:

1. I am to make a good faith effort to determine whether the agency has possession, custody or control of the record requested, pursuant to 65 P.S. § 67.901;
2. I have made a thorough inquiry of any designated and/or reasonably likely records custodians for the records requested above; and
3. based on the information provided to me, I do hereby affirm that, to the best of my knowledge, information and belief, DCED does not have such records in its possession, custody or control.

Date: April 19, 2023

Signature /s/ Eileen Quinn