

MUNICIPAL LAW ALERT

(February 20, 2008) On February 14, 2007, the Governor signed into law the new Right-to-Know Act, as Act 3 of 2008 (the "Act"). The Act makes significant changes to the Right-to-Know law, including the determination of what records are public records and the procedural process for requests and appeals. Under the Act records will be presumed a public record unless the record meets a specifically defined exception. The Act also will require governmental agencies to amend their procedures regarding right-to-know requests and the appeals process will be handled by a Commonwealth appointed Appeals Officer. These changes along with the majority of provisions in the Act become effective until January 1, 2009. A further analysis of these provisions will be forth coming after a more detailed review of the Act.

At the present time, the most important aspect of the Act that became effectively immediately is the new definition of "record". The definition of "record" is as follows:

Information, regardless of physical form or characteristics, that documents a transaction or activity of an agency and that is created, received or retained pursuant to law or in connection with a transaction, business or activity of the agency. The term includes a document, paper, letter, map, book, tape, photograph, film or sound recording, information stored or maintained electronically and a data-processed or image-processed document.

The intent of this new definition was to expand the type of information that is to be considered a record and to eliminate any distinction between information maintain in physical form and those in electronic form. As it stands now any information in a governmental agencies control is a record regardless of content and form.

Although the definition of "record" has been expanded, the term "public record" is still the determining factor in the granting of a Right-to-Know request

If you have any question, please feel free to contact _____,
Esquire directly at (610) 430-8000.