



Pennsylvania
Office of Open Records

Standard Right-to-Know Law Request Form

Please read carefully. Complete this form and retain a copy of **both** pages; this copy may be required if an appeal is filed. You have 15 business days to appeal after a request is denied or deemed denied. More information about the RTKL is available at <https://www.openrecords.pa.gov>. In most cases, a completed RTKL request form is a public record.

SUBMITTED TO AGENCY NAME: CITY OF DUBOIS, PENNSYLVANIA (Attn: AORO)

Date Request Submitted: 10/18/24 Submitted via: Email U.S. Mail Fax In Person

PERSON MAKING REQUEST:

Full Name: JUDITH SUPLIZIO

Company (if applicable): _____

Please send response via: Email U.S. Mail

If you wish to obtain records that only exist in hard copy, or must be provided on an electronic storage device, you may be required to provide a mailing address to the agency. See Section 703.

Email: [REDACTED]

Mailing Address: 314 HAMOR STREET

City: DUBOIS State: PA Zip: 15801 Telephone: [REDACTED]

How do you prefer to be contacted if the agency has questions? Telephone Email U.S. Mail

By checking this box, I affirm that my full name and contact information is true and correct, and that I am a legal resident of the United States. I understand that failure to check this box may result in the denial of my request and the dismissal of any appeal filed with the Office of Open Records.

RECORDS REQUESTED: Provide as much detail as possible, including subject matter, time frame, and type of record sought. RTKL requests must seek records, not ask questions. Use additional pages if necessary.
On 10/16/24, The City of DuBois, Pa. Mayor was quoted as saying "I'll try to clear this up too" said Reasinger. "There was a DuBois Volunteer Fire Department Parade Committee and Funds. Then there was Herm's (Suplizio) Community Fund (which was unknown to the city council or the fire department). And that's what tainted the name because that is what he (Suplizio) used."

Please provide all of the documents which support this statement. That is all city documents that justify and corroborate this statement that community funds were unknown to the city council or the fire department, or justification that names of any type were justifiably tainted.

Form continues on page 2. Retain a copy of **both** pages.

RECORDS REQUESTED (continued):

DO YOU WANT COPIES? Yes, printed Yes, electronic No, in-person inspection

Records shall be provided in the medium requested if they exist in that medium; otherwise, they shall be provided in the medium in which they exist. See Section 701. Your request may require payment or prepayment of fees. View the Official RTKL Fee Schedule for more details.

I understand that my request may incur fees. Notify me before further processing if fees will be more than \$100 (or) \$5.00 _____.

Do you want certified copies? Yes (may be subject to additional costs) No

ITEMS BELOW THIS LINE FOR AGENCY USE ONLY

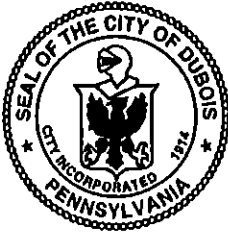
Tracking: _____ Date Received: _____ Response Due (5 bus. days): _____

30-Day Ext.? Yes No (If Yes, Final Due Date: _____) Actual Response Date: _____

Request was: Granted Partially Granted & Denied Denied Cost to Requester: \$ _____

Appropriate third parties notified and given an opportunity to object to the release of requested records.

Retain a copy of both pages of this Form.



CITY OF DuBOIS, PENNSYLVANIA

P.O. BOX 408

16 W. SCRIBNER AVE.

DuBOIS, PENNSYLVANIA 15801

TELEPHONE: (814) 371-2000

FAX: (814) 371-1290

October 24, 2024

Ms. Judy Suplizio
314 Hamor Street
DuBois, PA 15801

Dear Ms. Suplizio,

Thank you for writing the City of DuBois with your request for information pursuant to the Pennsylvania Right- To-Know law.

On October 21, 2024, you requested all of the documents which support the Mayor's statement at a meeting on 10/16/2024, and all city documents that justify and corroborate this statement that community funds were unknown to the city council or the fire department, or justification that names of any type were justifiably tainted.

Pursuant to Section 902(a) of the Right to Know Law, the City of DuBois requires an additional 30 days to respond to the request:

- A timely response to the request cannot be accomplished due to bona fide and specified staffing limitations.
- A legal review is necessary to determine whether the record is a record subject to access under this act

The City of DuBois expects to respond to your request on or before November 22, 2024.

Respectfully,

Shawn Arbaugh
City Manager
City of DuBois, Clearfield County

DILLON McCANDLESS KING COULTER & GRAHAM L.L.P.
ATTORNEYS AT LAW

RONALD N. REPAK, PARTNER
MATHEW P. GIEG, ESQUIRE

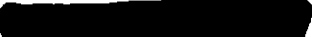
313 WEST HIGH STREET,
SUITE 209
EBENSBURG, PA 15931
PHONE: (814) 478-2220

OTHER OFFICES:
BUTLER OFFICE:
128 WEST CUNNINGHAM ST.
BUTLER, PA 16001
PHONE: (724) 283-2200

CRANBERRY OFFICE:
600 CRANBERRY WOODS DR.,
SUITE 175
CRANBERRY TWP., PA 16066
PHONE: (724) 776-6644

November 12, 2024

Judith Suplizio
314 Hamor Street
DuBois, PA 15801

Via email only 

Re: Right-to-Know Request dated October 18, 2024

Dear Ms. Suplizio,

This office represents the City of DuBois ("the City"). This letter is a written response to the right-to-know request you filed with the City dated October 14, 2024. Your request seeks *review* of the following alleged public records:

"A complete formalized CITY OF DUBOIS Listing/Record review of all money actually missing or not accounted for from any city account or fund for the period 2008 thru 2023 inclusive".

Section 705 of the Pennsylvania Right-to-Know Law ("RTKL"), Act of February 14, 2008, P.L. 6, 65 P.S. § 67.101-67.3104, provides that "[w]hen responding to a request for access, an agency shall not be required to create a record which does not currently exist"

As evidenced in the affidavit signed by Shawn Arbaugh, City Manager for the City of DuBois, no "Listing/Record review of all money actually missing or not accounted for from any city account or fund for the period 2008 thru 2023

DILLON MCCANDLESS KING COULTER & GRAHAM L.L.P.

The request (quoted in bold text above) does not constitute a request for documents that are “public records” under the Pennsylvania Right-to-Know Law (“RTKL”), Act of February 14, 2008, P.L. 6, 65 P.S. §§ 67.101-67.3104. It is axiomatic that the RTKL applies to “public records”. The term “record” is defined as “[i]nformation, 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”. 65 P.S. § 67.102. The term “public record” is defined as “[a] *record*, including a financial record, of a Commonwealth or local agency that: (1) is not exempt under section 708; (2) is not exempt from being disclosed under any other Federal or State law or regulation or judicial order or decree; or (3) is not protected by a privilege”. *Id.* (emphasis added).

Mindful of the foregoing statutory definitions of “record” and “public record” under the RTKL, the alleged records requested by Suplizio do not constitute information that documents a transaction or activity of the City of DuBois, or created, received, or retained in connection with a transaction, business or activity of the City of DuBois. Rather, the basic premise of the request incorrectly characterizes statements allegedly made by Mayor Reasinger at a public meeting as an “activity” of and by the City of DuBois. Regarding requests under the RTKL, it is well-established that “[t]he subject matter of the request must identify the ‘transaction or activity’ of the agency for which the record is sought. See Section 102 of the RTKL, 65 P.S. § 67.102 (defining a ‘record’ under the RTKL as ‘*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.’). *Pa. Dep’t of Educ. v. Pittsburgh Post-Gazette*, 119 A.3d 1121, 1125 (Pa. Commw. 2015) (emphasis in original).

Because the alleged records requested are not public records – but rather statements made by the mayor (a council member) during a public meeting for which there is no evidence whatsoever that said comments were for or on behalf of the City – the request must be denied, as the subject matter of the request does not identify a *transaction or activity of an agency* (here, the City of DuBois). Based upon the foregoing, the request is denied in its entirety.

DILLON McCANDLESS KING COULTER & GRAHAM L.L.P.

In addition to the above, as evidenced in the affidavit signed by Shawn Arbaugh, City Manager for the City of DuBois, the documents requested do not exist; consequently, the request is denied in its entirety for this reason, as well. *See* 65 P.S. § 67.705 (“When responding to a request for access, an agency shall not be required to create a record which does not currently exist . . .”). The affidavit of Shawn Arbaugh, City Manager for the City of DuBois, is attached hereto, made a part hereof, incorporated herein, and designated as Exhibit A.

Therefore, the request is denied.

Sincerely,

A handwritten signature in black ink, appearing to read 'Matthew P. Gieg', with several overlapping loops and a long horizontal stroke extending to the left.

Matthew P. Gieg, Esquire

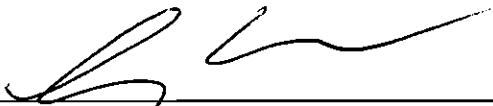
Cc: City of DuBois

Affidavit

I, Shawn Arbaugh ("Affiant"), being duly sworn according to law, depose, state, and verify that I am the acting City Manager for the City of DuBois, Clearfield County, Pennsylvania, and that I am authorized to make this Affidavit on behalf of the City of DuBois in my capacity as City Manager for the City of DuBois. As Affiant, I am submitting this Affidavit to verify certain facts contained in the City of DuBois' written response to the right-to-know request of Judith Suplizio dated October 18, 2024.

Regarding the right-to-know request of Judith Suplizio at issue in this matter, I hereby depose, state, and verify as follows:

- That I reviewed the right-to-know request with Matthew P. Gieg, Esquire, of Dillon McCandless King Coulter & Graham L.L.P., assistant solicitor for the City of DuBois;
- That the documents requested in said right-to-know request do not exist;
- That, based upon the fact that the records requested do not exist, the determination was made to deny the request in its entirety; and
- That the legal analysis, facts, and determination to deny the subject right-to-know request set forth in the written submission of Matthew P. Gieg, Esquire, on behalf of the City of DuBois, is based upon my verified statements made herein.



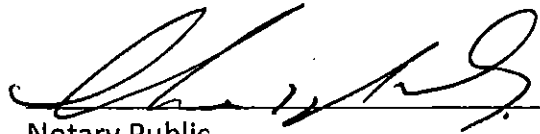
Shawn Arbaugh
City Manager
City of DuBois, Clearfield County, PA

"Exhibit A"

COMMONWEALTH OF PENNSYLVANIA : SS
COUNTY OF CLEARFIELD :

On this, the 12 day of Nov., 2024, before me, a Notary Public, the undersigned officer, personally appeared Shawn Arbaugh, City Manager for the City of DuBois, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within Affidavit, and acknowledged that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.


Notary Public

My Commission Expires:

Commonwealth of Pennsylvania - Notary Seal
Thomas M. Nowak Jr., Notary Public
DuBois City, Clearfield County
My Commission Expires: November 29, 2026
Commission Number: 1259192