

FINAL DETERMINATION

DATE ISSUED AND MAILED: April 19, 2024

IN RE: *Lance Turturice v. West Middletown Borough*, OOR Dkt. AP 2024-0859

On March 19, 2024, Lane Turturice, Esq. (“Requester”) submitted a request (“Request”) to West Middletown Borough (“Borough”) pursuant to the Right-to-Know-Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.* seeking “all public meeting minutes and minutes of all executive sessions of the ... Borough Council for years 2019, 2020, 2021, 2022, 2023 and 2024.” The Borough did not respond within five business days of receiving the Request, and the Request was, therefore, deemed denied on March 26, 2024. 65 P.S. § 67.901. On March 28, 2024, the Requester filed an appeal with the Office of Open Records (“OOR”).

Local agencies have the burden of proving that records are exempt from access. 65 P.S. § 67.708(a)(1). Here, the Borough did not comply with the RTKL by timely responding to the Request, nor did the Borough participate on appeal by submitting legal argument or evidence in support of withholding the requested records. Accordingly, the Borough did not meet its burden of proof under the RTKL. 65 P.S. § 67.305.

For this reason, the appeal is **granted**, and the Borough is required to provide all responsive records to the Requester within thirty days. Within thirty days of the mailing date of this Final Determination, either party may appeal or petition for review with the Washington County Court of Common Pleas. 65 P.S. § 67.1302(a). All parties must be served with notice of the appeal. The OOR also shall be served notice and have an opportunity to respond according to court rules as per 65 P.S. § 67.1303, but as the quasi-judicial tribunal adjudicating this matter, the OOR is not a proper party to any appeal and should not be named as a party.¹ All documents or communications following the issuance of this Final Determination shall be sent to oor-postfd@pa.gov. This Final Determination shall be placed on the website at: <http://openrecords.pa.gov>.

Issued by:

/s/ Kathleen A. Higgins

KATHLEEN A. HIGGINS
DEPUTY CHIEF COUNSEL

Sent via portal to: Lane Turturice, Esq.; Ruth Brown, AORO

¹ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).