

## **FINAL DETERMINATION**

DATE ISSUED AND MAILED: April 16, 2024

IN RE: *Joy Packard v. Pine Creek Township*, OOR Dkt. AP 2024-0835 (Consolidated appeal of OOR Dkts. AP 2024-0835, 2024-0841, 2024-0847, and 2024-0848)

Upon review of the appeal filed with the Office of Open Records (“OOR”) to the above-referenced docket number, it is determined that the appeal is **DISMISSED** because:

**The appeals are premature.** The requests at issue were emailed on either March 12, 2024, a Tuesday, or March 15, 2024, a Friday, and received by the Township’s open-records officer on either March 14, 2024 or March 21, 2024, respectively. Macklem Affidavits ¶ 2. The Right-to-Know Law (“RTKL”) provides that an agency has “five business days from the date the written request is received by the open-records officer” to respond. 65 P.S. § 67.901. In this section, the General Assembly deliberately chose *business* days, as opposed to calendar days. *Cf.* 65 P.S. § 67.902(b)(2) (agencies may extend their time to respond by an additional thirty *calendar* days). The Township only has office hours for the public on Thursday. Macklem Affidavits ¶ 3.<sup>1</sup> Because we must look to an agency’s business days,<sup>2</sup> the Township had five business days after the requests’ receipt, or until April 18, 2024 or April 25, 2024 to respond to the requests. The Requester is not prohibited from filing a new appeal, challenging any denial or deemed denial of the requests, pursuant to 65 P.S. § 67.1101(a)(1).

For this reason, the Township is not required to take any further action. Within thirty days of the mailing date of this Final Determination, either party may appeal or petition for review with the Clinton 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. However, 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.<sup>3</sup>

Issued by:  
/s/ Kyle Applegate

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CHIEF COUNSEL  
KYLE APPLGATE, ESQ.

Sent via E-File Portal to: Joy Packard; Robert Rosamilia, Esq.

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<sup>1</sup> Office hours on any other days are by appointment only. However, those dates – setting forth theoretical availability – do not constitute business days for the calculations of deadlines.

<sup>2</sup> The Requester also argues that the Township’s open-records officer works remotely from home, is available by email, and is open-records officer for other agencies as well. However, we do not believe these arguments are relevant to determining the *Township’s* business days. Agency employees routinely work from home and are available by email, and the open-records officer’s other work obligations do not affect any calculations here.

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