

## **FINAL DETERMINATION**

DATE ISSUED AND MAILED: April 25, 2024

IN RE: *Tricia Mezzacappa v. Northampton County District Attorney's Office*, OOR Dkt. AP 2024-0591

On February 13, 2024, Tricia Mezzacappa ("Requester") submitted a request ("Request") to the Northampton County District Attorney's Office ("Office") pursuant to the Right-to-Know Law ("RTKL"), 65 P.S. §§ 67.101 *et seq.*, seeking electronic copies of documents supporting a disbursement from an asset forfeiture account. The Office did not respond within five business days of receiving the Request, and the Request was, therefore, deemed denied on February 21, 2024. *See* 65 P.S. § 67.901. On March 1, 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 Office failed to comply with the RTKL by timely responding to the Request, nor did the Office participate on appeal by submitting legal argument or evidence justifying withholding records. Accordingly, the Office did not meet its burden of proof under the RTKL. 65 P.S. § 67.305.

For this reason, the appeal is **granted**,<sup>1</sup> and the Office is required to produce the requested records within thirty days. Within thirty days of the mailing date of this Final Determination, either party may appeal or petition for review with the Northampton 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>2</sup> All documents or communications following the issuance of this Final Determination shall be sent to [oor-postfd@pa.gov](mailto:oor-postfd@pa.gov). This Final Determination shall be placed on the website at: <http://openrecords.pa.gov>.

Issued by:

/s/ Blake Eilers

BLAKE EILERS, ESQ.

APPEALS OFFICER

Delivered via E-file Portal to: Tricia Mezzacappa and AORO

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<sup>1</sup> The OOR is aware that these records have been made available in the past; however, where an agency asserts no grounds for withholding records, the OOR will grant an appeal. *See* 65 P.S. § 67.708(a); *Mezzacappa v. Northampton Cnty. Dist. Attorney's Off.*, OOR Dkt. AP 2023-2991, 2024 PA O.O.R.D. LEXIS 377; *Mezzacappa v. Northampton Cnty. Dist. Attorney's Off.*, OOR Dkt. AP 2023-0384, 2023 PA O.O.R.D. LEXIS 887. The OOR notes that the Office has no obligation to convert paper copies into an electronic medium. *See* 65 P.S. § 67.701(a).

<sup>2</sup> *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).