



pennsylvania
OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF	:	
	:	
SAMIRIA RANDOLPH-ALI,	:	
Requester	:	
	:	
v.	:	Docket No.: AP 2016-1219
	:	
STEELTON BOROUGH,	:	
Respondent	:	

The Office of Open Records (“OOR”) received the above-captioned appeal under the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.* Upon review of the file, the appeal is **dismissed** for the following reason:

On June 30, 2016, Samiria Randolph-Ali (“Requester”) filed a request (“Request”) with Steelton Borough (“Borough”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking records regarding a motor vehicle accident that occurred on September 18, 2014, and an arrest that occurred on August 6, 2014. On July 8, 2016, the Borough partially denied the Request, providing a redacted arrest report.

On July 18, 2016, the Requester filed an appeal with the OOR, challenging the denial of dash camera video, and GPS and dispatch records, and stated grounds for disclosure. The Requester does not challenge redactions made to the arrest report. On July 19, 2016, the OOR issued an Order notifying the Requester that the appeal was deficient because it failed to include a complete copy of the original request. The OOR informed the Requester that she was required to cure the deficiency and directed her to file a complete copy of the original request pursuant to 65 P.S. § 67.1303(b). The OOR also invited both parties to supplement the record and directed the Borough to notify any third parties of their ability to participate in the appeal. *See* 65 P.S. § 67.1101(c). On July 25, 2016, the Requester submitted a RTKL request to the Borough dated June 29, 2016. On August 11, 2016, the Borough submitted a position statement arguing that the June 29, 2016 request submitted by the Requester is not a document that was ever submitted to the Borough. Additionally, the Borough submitted the sworn attestation of Douglas Brown,

Open Records Officer for the Borough, who attests that the June 29, 2016 request submitted by the Requester was never received by the Borough.¹

Under the RTKL, a statement made under the penalty of perjury is competent evidence to sustain an agency's burden of proof. *See Sherry v. Radnor Twp. Sch. Dist.*, 20 A.3d 515, 520-21 (Pa. Commw. Ct. 2011); *Moore v. Office of Open Records*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010). Based on the evidence provided, including the Borough's response, which mirrors the Request that Mr. Douglas attests to, the Requester failed to comply with the OOR's Order by not submitting a copy of the complete June 30, 2016 Request that is the subject of the present appeal. By failing to include a copy of the original complete request, the record in this appeal is not sufficient. Without a copy of the original request, the OOR does not have a complete record upon which to base its determination. Additionally, the OOR would be unable to present a complete record on appeal to an appellate court as required by Section 1303(b) of the RTKL. As the Requester has failed to comply with the OOR's Order, this matter is **dismissed**.²

For the foregoing reasons, the Borough is not required to take any further action. This Final Determination is binding on the parties. Within thirty days of the mailing date of this Final Determination, either party may appeal to the Dauphin 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 as per Section 1303 of the RTKL. 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.³ This Final Determination shall be placed on the OOR website at: <http://www.openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: August 16, 2016

/s/ Kathleen A. Higgins

APPEALS OFFICER
KATHLEEN A. HIGGINS, ESQ.

Sent to: Samiria Randolph-Ali;
Douglas Brown (via e-mail only);
David Wion, Esq. (via e-mail only)

¹ Mr. Brown attests that the June 30, 2016 Request seeks “[d]ispatch, GPS, and internal records of any Steelton Police involvement in a MVA on 9/18/14 5:00pm-6pm Investigation on [the Requester] records Aug. 6, 2014 arrest. GPS, dispatch records.” The June 29, 2016 request submitted by the Requester to the OOR seeks “all dispatch recordings and records on 9/18/14 between 4pm – 8pm (accident happen[ed] between 5:45[pm]-6:00pm)[.] I need all gps records, internal reports, and dash camera footage from all Steelton patrol vehicles on the same dates and times.”

² Regardless, the Borough's Open Records Officer attests that a search was conducted and the records requested on June 30, 2016, relating to a motor vehicle accident on September 18, 2014, do not exist in its possession, custody or control.

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