



pennsylvania
OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF	:	
	:	
JACK WILLIAMS,	:	
Requester	:	
	:	
v.	:	Docket No.: AP 2016-1235
	:	
CITY OF JOHNSTOWN,	:	
Respondent	:	

INTRODUCTION

On June 10, 2016, Jack Williams (“Requester”) submitted a request (“Request”) to the City of Johnstown (“City”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking, among other records, e-mails sent and received by the City’s e-mail server from January 1, 2016 to June 9, 2016. On June 17, 2016, the City extended its time to respond by thirty days. *See* 65 P.S. § 67.902(b). On July 12, 2016, the City asked the Requester for an additional thirty days to provide a response; however, the Requester did not agree to the additional extension of time. *See* 65 P.S. § 67.902(b)(2). As the City did not respond within its thirty-day extension period, the Request was deemed denied. *Id.*

On July 20, 2016, the Requester appealed to the Office of Open Records (“OOR”), stating grounds for disclosure. The OOR invited both parties to supplement the record. On July 29, 2016, the City explained that it was in the process of retrieving the requested e-mails and it required additional time to review the e-mails. The City further indicated that it would be interested in resolving the current matter through the OOR’s mediation process; however, the request for mediation was declined by the Requester.

Based on the City’s failure to provide any evidentiary basis in support of an exemption under the RTKL, the City has not met its burden of proof under the RTKL. *See* 65 P.S. § 67.305.

For the foregoing reasons, the Requester appeal is **granted**, and the City is required to provide all responsive records within thirty days. This Final Determination is binding on the parties. Within thirty days of the mailing date of this determination, either party may appeal to the Cambria County Court of Common Pleas. *See* 65 P.S. § 67.1302(a). All parties must be

served with notice of the appeal. The OOR also shall be served with notice and have an opportunity to respond according to court rules 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.¹ This Final Determination shall be placed on the OOR website at: <http://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: August 19, 2016

/s/ Bina Singh

BINA SINGH
APPEALS OFFICER

Sent to: Jack Williams (via e-mail only);
Renée Daly (via e-mail only)

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