



pennsylvania

OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF

:

**ROBERT AMORE,
Requester**

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:

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v.

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Docket No.: AP 2016-1071

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**MUNICIPALITY OF PENN HILLS,
Respondent**

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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 April 29, 2016, Robert Amore (“Requester”) submitted a request (“Request”) to the Municipality of Penn Hills (“Municipality”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking various records related to the construction, building and zoning of six specific properties. The Municipality did not respond to the Request within five business days, and the Request was, therefore, deemed denied on May 9, 2016. *See* 65 P.S. § 67.901.

Under the RTKL, “[t]he time for response shall not exceed five business days from the date the written request is received by the open-records officer for an agency.” 65 P.S. § 67.901. However, within five business days upon receipt of the request, an agency may invoke an extension of time to respond to a request if certain factors apply. *See* 65 P.S. § 67.902. Here, the Request was received by the Municipality’s Open Records Officer on May 2, 2016, and the Municipality did not invoke a thirty day extension of time to respond to the Request until May 10, 2016. Therefore, the Request was deemed denied on May 9, 2016, five business days after its receipt by the Municipality’s Open Records Officer. *See* 65 P.S. § 67.901; *Commonwealth v. Donahue*, 98 A.3d 1223, 1238 (Pa. 2014). Pursuant to 65 P.S. § 67.1101(a)(1), the Requester had fifteen business days from the date of the deemed denial to file an appeal, or until May 31, 2016. The appeal was filed with the OOR on June 17, 2016. Accordingly, the appeal is **dismissed as untimely.**

For the foregoing reasons, the Municipality 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 Allegheny 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.¹ This Final Determination shall be placed on the OOR website at: <http://www.openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: September 16, 2016

/s/ Kathleen A. Higgins

APPEALS OFFICER
KATHLEEN A. HIGGINS, ESQ.

Sent to: Robert Amore (via e-mail only);
Mohammed Rayan (via e-mail only)

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