



**pennsylvania**  
OFFICE OF OPEN RECORDS

**FINAL DETERMINATION**

**IN THE MATTER OF**

**ERIN SPENCER,  
Requester**

**v.**

**CITY OF PITTSBURGH,  
Respondent**

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**Docket No. AP 2016-1529**

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 as premature for the following reason:

On August 26, 2016, Erin Spencer (“Requester”) submitted a RTKL request (“Request”) to the City of Pittsburgh (“City”), seeking various records pertaining to parking restrictions on Forbes Avenue. Having received no response from the City, the Requester filed an appeal with the OOR on September 9, 2016, arguing that the Request had been deemed denied.

On September 9, 2016, the City made a submission explaining that the Requester submitted the Request to the City Open Records Officer’s previous e-mail address, and that the e-mail was not forwarded to the City Open Records Officer’s current e-mail address.<sup>1</sup> As a result, the City explains that it never received the Request before the appeal was filed. The Requester did not make a submission on appeal.

Section 901 of the RTKL states that “[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; *see also Commonwealth v. Donahue*, 98 A.3d 1223 (Pa. 2014). Here, the Request was not submitted to the City Open Records Officer’s current e-mail address; consequently, the City did not receive the Request before the appeal was filed. As a result, the appeal is **dismissed as premature**. The Requester may refile the Request with the City, and if necessary, file an appeal pursuant to the requirements of 65 P.S. § 67.1101(a).

This Final Determination is binding on all parties. Within thirty days of the mailing date

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<sup>1</sup> The Requester’s appeal form explains that the Request was sent to [openrecords@city.pittsburgh.pa.us](mailto:openrecords@city.pittsburgh.pa.us), rather than the current e-mail address, [openrecords@pittsburghpa.gov](mailto:openrecords@pittsburghpa.gov).

of this Final Determination, any party may appeal to the Allegheny County Court of Common Pleas. 65 P.S. § 67.1302(a). All parties and the OOR must be served with notice of the appeal and have an opportunity to respond according to court rules as per Section 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> This Final Determination shall be placed on the OOR website at: <http://openrecords.pa.gov>.

**FINAL DETERMINATION ISSUED AND MAILED: September 29, 2016**

/s/ Kyle Applegate

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APPEALS OFFICER  
KYLE APPLGATE, ESQ.

Sent to: Erin Spencer (via e-mail only);  
Celia Liss, Esq. (via e-mail only)

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