



pennsylvania
OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF	:	
	:	
JOHN YAKIM,	:	
Requester	:	
	:	
v.	:	Docket No.: AP 2016-1702
	:	
MUNICIPALITY OF MONROEVILLE,	:	
Respondent	:	
	:	

On October 4, 2016, John Yakim (“Requester”) filed a request (“Request”) with the Municipality of Monroeville (“Municipality”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking:

...correspondence to or from Members of Council, Mayor Erosenko, Manager Little, Sharon McDoe, Joe Sedlack [*sic*] and members of the Home Rule Charter Committee which discuss the Home Rule Charter or the work of the HRC Committee...include e-mails, notes, agendas, discussions of meetings or discussions of agenda.... Date range September 1-30, 2016.

On October 11, 2016, the Municipality partially denied the Request, providing the responsive e-mails but redacting personal identification information. 65 P.S. § 67.708(b)(6).

On October 11, 2016, the Requester filed an appeal with the Office of Open Records (“OOR”), stating grounds for disclosure. The OOR invited both parties to supplement the record. On October 14, 2016, the Requester submitted a statement challenging the good faith search conducted by the Municipality. On October 27, 2016, the Requester submitted an additional statement arguing that the Municipality’s meeting minutes reference communications that would be responsive to the Request and were never provided to the Requester. On October 27, 2016, the Municipality confirmed that it is not submitting any evidence on appeal.

Section 708 of the RTKL places the burden of proof on the Municipality to demonstrate that a record is exempt. 65 P.S. § 67.708(a). In the present case, the Municipality did not comply with the RTKL by failing to provide any factual or legal support for denying access to the redacted information, as well as not providing evidence that it does not possess any additional responsive records. Based on the Municipality’s failure to provide any evidence, the Municipality did not meet its burden under the RTKL. *See* 65 P.S. § 67.305.

For the foregoing reasons, Requester's appeal is **granted**, and the Municipality is required to provide the Requester with unredacted copies of all responsive records within thirty days. This Final Determination is binding on all parties. Within thirty days of the mailing date of this Final Determination, any 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 according to 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: November 7, 2016

/s/ Jill S. Wolfe

APPEALS OFFICER
JILL S. WOLFE, ESQ.

Sent to: John Yakim (via e-mail only);
Joe Sedlak (via e-mail only).

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