



**FINAL DETERMINATION**

**IN THE MATTER OF**

**KENNETH LAYNG,  
Requester**

**v.**

**CENTRE COUNTY,  
Respondent**

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**: Docket No.: AP 2022-1969**

On August 2, 2022, Kenneth Layng (Requester”) submitted a request (“Request”) to Centre County (“County”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking “all Cast Vote Records (CVR) for all voting machines from every Centre County precinct for the 2020 General Election.” On August 9, 2022, the County denied the Request,<sup>1</sup> stating that the County does not possess the requested records, while also directing the Requester to the County’s website for additional information, and advising the Requester to go to the County’s Election Office to request available records pursuant to the Pennsylvania Election Code (“Election Code”), 25 P.S. § 2548.

On August 25, 2022, the Requester appealed to the Office of Open Records (“OOR”). The OOR invited the parties to supplement the record and directed the County to notify third parties of their ability to participate in the appeal. *See* 65 P.S. § 67.1101(c). On September 7, 2022, the

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<sup>1</sup> The County’s response and its submission on appeal indicate that the Request was granted; however, the OOR’s review of the County’s response to the Request indicates that the Requester was denied access to the requested records.

County submitted a position statement, arguing that the requested records are confidential pursuant to the Election Code. The County also provided citations to several recent OOR Final Determinations, arguing that the OOR has previously held that the CVR is the digital equivalent of ballot boxes, and as a result, the requested records are confidential pursuant to the Election Code.

The Election Code, provides, in pertinent part, as follows:

The records of each county board of elections, general and duplicate returns, tally papers, affidavits of voters and others, nomination petitions, certificates and papers, other petitions, appeals, witness lists, accounts, contracts, reports and other documents and records in its custody, *except the contents of ballot boxes and voting machines* and records of assisted voters, shall be open to public inspection, except as herein provided...

25 P.S. § 2648 (emphasis added).

The OOR has previously found that the CVR is the digital equivalent of the contents of ballot boxes, and that the Election Code explicitly provides that the contents of ballot boxes are not public records. *See Burkhard v. Cambria Cnty.*, OOR Dkt. AP 2022-1507, 2022 PA O.O.R.D. 2052; *Buemi v. Chester Cnty.*, OOR Dkt. AP 2022-1484, 2022 PA O.O.R.D. 1959; *Ball v. Washington Cnty.*, OOR Dkt. AP 2022-1223, 2022 PA O.O.R.D. LEXIS 1750; *Stroehmann v. Lycoming Cnty.*, OOR Dkt. AP 2022-0885, 2022 PA O.O.R.D. LEXIS 1292; *Honey v. Lycoming Cnty.*, OOR Dkt. AP 2021-2603, 2022 PA O.O.R.D. LEXIS 71. Accordingly, the County need not provide the CVR to the Requester. Furthermore, because the CVR is not a public record, the OOR need not address the method of access provided by the Election Code. *See id.*

For the foregoing reasons, the Requester's appeal is **denied**, and the County is not required to take any further action. 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 Centre 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.<sup>2</sup> This Final Determination shall be placed on the OOR website at: <http://openrecords.pa.gov>.

**FINAL DETERMINATION ISSUED AND MAILED: September 30, 2022**

*/s/ Kathleen A. Higgins*

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KATHLEEN A. HIGGINS  
DEPUTY CHIEF COUNSEL

Sent via email to:     Kenneth Layng;  
                              Natalie W. Corman;  
                              Elizabeth A. Dupuis, Esq.

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