

FINAL DETERMINATION

DATE ISSUED AND MAILED: November 22, 2022

IN RE: *Gerald Mullery v. Hazelton City*, OOR Dkt. AP 2022-2632

Upon review of the appeal filed with the Office of Open Records (“OOR”) to the above-referenced docket number, it is determined that the appeal is **DISMISSED** because:

The OOR lacks jurisdiction. The appeal challenges the City’s denial of a request for video and/or still photography of an intersection. The appeal explains that the Request was made pursuant to 42 Pa.C.S. § 67A03. However, under such requests, the Right-to-Know Law does not apply, 42 Pa.C.S. § 67A02(a), and there is a separate procedure governing access. 42 Pa.C.S. §§ 67A03-67A05. Further, any appeals are to be filed “in the court of common pleas with jurisdiction.” 42 Pa.C.S. § 67A06. Therefore, the OOR does not have jurisdiction over this appeal and any appeal should be made to the relevant court of common pleas.

For this reason, the City is not required to take any further action. Within thirty days of the mailing date of this Final Determination, you may appeal or petition for review with the Luzerne 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 court rules as per 65 P.S. § 67.1303. 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.¹

Issued by:

/s/ Kyle Applegate

Appeals Officer
Kyle Applegate, Esq.

Sent to: Requester (via email), Agency Open Records Officer (via email)

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