

FINAL DETERMINATION

DATE ISSUED AND MAILED: March 27, 2024

IN RE: *Tommy Vadyak v. Lansford Borough*, OOR Dkt. AP 2024-0629

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

The appeal is premature. The appeal states that the Request (“Request”) was filed on February 19, 2024 and deemed denied on February 26, 2024; however, the Borough received the Request on February 28, 2024. Under the RTKL, the Borough had five business days from February 28, 2024, to issue a final response to the Request, or until 11:59 p.m. on March 6, 2024. 65 P.S. § 67.901. Because the appeal was submitted to the OOR on March 6, 2024, it must be dismissed as premature. The Requester is not prohibited from filing a new appeal to the OOR of any denial or deemed denial stemming from the Request, pursuant to the requirements of 65 P.S. § 67.1101(a)(1).

For this reason, the Borough is not required to take any further action in this appeal. Within thirty days of the mailing date of this Final Determination, either party may appeal or petition for review with the Carbon 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; 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 65 P.S. § 67.1303. All documents or communications following the issuance of this Final Determination shall be sent to oor-postfd@pa.gov. This Final Determination shall be placed on the website at: <http://openrecords.pa.gov>.

Issued by:

/s/ Bandy L. Jarosz

BANDY L. JAROSZ, ESQ.
APPEALS OFFICER

Sent via portal only to: Tommy Vadyak, Bruce Markovich

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