

## **FINAL DETERMINATION**

DATE ISSUED AND MAILED: April 2, 2024

IN RE: *Maria Criscella v. Kennedy Township*, OOR Dkt. AP 2024-0560

On February 8, 2024, Maria Criscella (“Requester”) submitted a request (“Request”) to Kennedy Township (“Township”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking the “2024 complete Township Budget.” The Township did not respond, and the Request was deemed denied on February 15, 2024. 65 P.S. § 67.901. On February 27, 2024, the Requester filed an appeal with the Office of Open Records (“OOR”).

Local agencies have the burden of proving that records are exempt from access. 65 P.S. § 67.708(a)(1). Here, the Township did not comply with the RTKL by timely responding to the Request, nor did the Township participate on appeal by submitting legal argument or evidence in support of withholding records.<sup>1</sup> Accordingly, the Township did not meet its burden of proof under the RTKL. 65 P.S. § 67.305.

For this reason, the appeal is **granted**, and the Township is required to provide all requested records to the Requester within thirty days, or, in the alternative, a sworn affidavit or a statement made under the penalty of perjury demonstrating that the records do not exist. Within thirty days of the mailing date of this Final Determination, either party may appeal or petition for review with 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 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.<sup>2</sup> All documents or communications following the issuance of this Final Determination shall be sent to [oor-postfd@pa.gov](mailto:oor-postfd@pa.gov). This Final Determination shall be placed on the website at: <http://openrecords.pa.gov>.

Issued by:

*/s/ Magdalene C. Zeppos-Brown*  
MAGDALENE C. ZEPPOS-BROWN, ESQ.  
DEPUTY CHIEF COUNSEL

Sent via OOR e-file portal to: Maria Criscella and Gerald Orsini, AORO

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<sup>1</sup> After the record closed without a submission, the OOR afforded the Township through March 20, 2024 to submit evidence. To date, no submission has been received.

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