



**FINAL DETERMINATION**

**IN THE MATTER OF**

**LAVONNE RICKER,  
Requester**

**v.**

**BLAIN BOROUGH,  
Respondent**

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**Docket No: AP 2024-0744**

**FACTUAL BACKGROUND**

On March 12, 2024, Lavonne Ricker (“Requester”) submitted a request (“Request”) to Blain Borough (“Borough”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking:

RECORDS OF PAYROLL  
RECORDS OF DONATIONS  
RECORDS OF WATER AND MAINTENANCE  
ALL FINANCIAL RECORDS  
RECORDS OF MEETING MINUTES  
RECORDS OF THE SUNSHINE LAW BEING MET PERTAINING TO WHAT  
LOCAL PAPERS MEETINGS AND TIMES WERE LISTED IN

On March 14, 2024, following a thirty-day extension during which to respond, 65 P.S. § 67.902(b), the Borough denied the Request, arguing that the Request is insufficiently specific.

On March 18, 2024, the Requester appealed to the Office of Open Records (“OOR”),

challenging the denial and stating grounds for disclosure.<sup>1</sup> The OOR invited both parties to supplement the record and directed the Borough to notify any third parties of their ability to participate in this appeal. 65 P.S. § 67.1101(c). On April 2, 2024, the Borough submitted a position statement reiterating its grounds for denial.

## **LEGAL ANALYSIS**

The Borough is a local agency subject to the RTKL. 65 P.S. § 67.302. Records in the possession of a local agency are presumed to be public, unless exempt under the RTKL or other law or protected by a privilege, judicial order or decree. *See* 65 P.S. § 67.305. As an agency subject to the RTKL, the Borough is required to demonstrate, “by a preponderance of the evidence,” that records are exempt from public access. 65 P.S. § 67.708(a)(1). Preponderance of the evidence has been defined as “such proof as leads the fact-finder ... to find that the existence of a contested fact is more probable than its nonexistence.” *Pa. State Troopers Ass’n v. Scolforo*, 18 A.3d 435, 439 (Pa. Commw. Ct. 2011) (quoting *Pa. Dep’t of Transp. v. Agric. Lands Condemnation Approval Bd.*, 5 A.3d 821, 827 (Pa. Commw. Ct. 2010)).

### **1. The Requester may not modify the Request on appeal**

In his appeal submission, the Requester states that the timeframe of the Request is from January 1, 2000 to the present. The Request as submitted on the form to the Borough on March 12, 2024 did not have a timeframe listed. The OOR has repeatedly held that a requester may not modify, explain or expand a request on appeal. *See Pa. State Police v. Office of Open Records*, 995 A.2d 515, 516 (Pa. Commw. Ct. 2010); *Michak v. Pa. Dep’t of Pub. Welfare*, 56 A.3d 925 (Pa. Commw. Ct. 2012) (holding that “where a requestor requests a specific type of record...the

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<sup>1</sup> The Requester granted the OOR a 30-day extension to issue a final determination. *See* 65 P.S. § 67.1101(b)(1) (“Unless the requester agrees otherwise, the appeals officer shall make a final determination which shall be mailed to the requester and the agency within 30 days of receipt of the appeal filed under subsection (a).”).

requestor may not, on appeal argue that an agency must instead disclose a different record in response to the request”). Therefore, the OOR’s review on appeal is confined to the Request as written, and any modification appeal related to the intended timeframe will not be considered..

## **2. The Request is insufficiently specific as written**

Section 703 of the RTKL states that “[a] written request should identify or describe the records sought with sufficient specificity to enable the agency to ascertain which records are being requested.” 65 P.S. § 67.703. In determining whether a particular request is sufficiently specific, the OOR uses the three-part balancing test employed by the Commonwealth Court in *Pa. Dep’t of Educ. v. Pittsburgh Post-Gazette*, 119 A.3d 1121 (Pa. Commw. Ct. 2015), and *Carey v. Pa. Dep’t of Corr.*, 61 A.3d 367, 372 (Pa. Commw. Ct. 2013). Specifically, the OOR examines to what extent the request sets forth (1) the subject matter of the request; (2) the scope of documents sought; and (3) the timeframe for which records are sought. *Pa. Dep’t of Educ.*, 119 A.3d at 1124-25. Finally, “[t]he fact that a request is burdensome does not deem it overbroad, although it may be considered as a factor in such a determination.” *Pa. Dep’t of Env’tl. Prot. v. Legere*, 50 A.3d 260, 265 (Pa. Commw. Ct. 2012) (*en banc*).

The Request has no listed timeframe, and the scope is broad, as most of the Request does not identify specific documents. Aside from the portion of the Request seeking meeting minutes, the subject matter is broad in that the Request seeks records related to such topics as payroll, donations, water and maintenance, financial records, and records of the Borough’s compliance with the Sunshine Law. In light of the lengthy timeframe, broad scope and lack of a narrowly defined subject matter, the Request does not adequately apprise the Borough of the records sought. *See Winegrad v City of Phila. Dept. of Licenses and Inspections*, OOR AP Dkt. 2023-0167, 2023 PA O.O.R.D. LEXIS 483. Accordingly, based on the evidence presented, the Borough

demonstrated that the Request is insufficiently specific; however, nothing in this Final Determination prevents the Requester from filing a more specific RTKL request for the same information, and if necessary, filing an appeal pursuant to the requirements of 65 P.S. § 67.1101(a)(1).

## **CONCLUSION**

For the foregoing reasons, the appeal is **denied**, and the Borough 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 Perry 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. 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 OOR website at: <http://openrecords.pa.gov>.

**FINAL DETERMINATION ISSUED AND MAILED: April 22, 2024**

*/s/ Catherine R. Hecker*

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CATHERINE R. HECKER, ESQ.  
APPEALS OFFICER

Sent via the OOR Portal to: Lavonne Ricker  
Kimberly Rose  
Max Bell, Esq.

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