



FINAL DETERMINATION

IN THE MATTER OF

**TANNER MCCARRON,
Requester**

v.

**PENNSYLVANIA DEPARTMENT OF
TRANSPORTATION,
Respondent**

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Docket No.: AP 2024-0947

On February 19, 2024, Tanner McCarron, Esq. (“Requester”) submitted a request (“Request”) to the Pennsylvania Department of Transportation (“Department”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking records related to a specific grant recipient. On March 27, 2024, following a thirty-day extension during which to respond, 65 P.S. § 67.902(b), the Department partially granted the Request, providing various responsive records, including a grant application in which personal identification and financial information was redacted pursuant to 65 P.S. § 67.708(b)(6)(i)(A).¹

On April 8, 2024, the Requester appealed to the Office of Open Records (“OOR”), challenging the redactions made to the responsive grant application. Specifically, the Requester limits the appeal to the redaction of “name,” “contact name,” and “top official/signing authority”

¹ The Department also withheld certain correspondence, records of meeting attendees, and meeting notes pursuant to Sections 708(b)(1), 708(b)(6), 708(b)(10), and 708(b)(11) of the RTKL; however, such records are not at issue in the instant appeal.

from the grant application. The OOR invited both parties to supplement the record and directed the Department to notify any third parties of their ability to participate in this appeal. 65 P.S. § 67.1101(c).

On April 17, 2024, the Department submitted a verified position statement² and the sworn affidavit of Stephen Panko, Planning Manager for the Department's Bureau of Rail, Freight, Ports, and Waterways, who affirms that the previously withheld information including the name, contact name, and top official/signing authority, was being provided to the Requester as part of the Department's appeal submission. *See Panko Affidavit*, ¶¶ 11-13. Attached to its appeal submission, the Department provided a copy of the responsive grant application, without the relevant redactions. As a result, based on the evidence submitted and the record before the OOR, the Department has demonstrated that the previously withheld information has been provided to the Requester, and the Requester has not submitted any evidence to the contrary. Therefore, because the Department provided the Requester with the previously withheld information and the Requester does not challenge any other portion of the Department's response to the Request, the appeal is **dismissed as moot**. *See Kutztown Univ. of Pa. v. Bollinger*, 217 A.3d 931 (Pa. Commw. Ct. 2019) (holding that an appeal is properly dismissed as moot where no controversy remains).

The file is now closed and no further action will be taken. This Final Determination is binding on the parties. Within thirty days of the mailing date of this Final Determination, either party may appeal to the Commonwealth Court. 65 P.S. § 67.1301(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, but as the quasi-judicial tribunal adjudicating

² The Panko Affidavit provides that the facts as set forth in the Department's position statement are true and correct. Panko Affidavit, ¶ 14.

this matter, the OOR is not a proper party to any appeal and should not be named as a party.³ 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>.

FINAL DETERMINATION ISSUED AND MAILED: April 23, 2024

/s/ Kathleen A. Higgins

KATHLEEN A. HIGGINS
DEPUTY CHIEF COUNSEL

Sent via OOR appeals portal to: Tanner McCarron, Esq.,
Adam Shanabrook, AORO;
Jasmine Butler, Esq.;
Victoria Edwards, Esq.

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