

FINAL DETERMINATION

DATE ISSUED AND MAILED: June 10, 2024

IN RE: *Vaughn Fisher v. City of McKeesport*, OOR Dkt. AP 2024-1282

On May 9, 2024, Vaughn Fisher (“Requester”) submitted a request (“Request”) to the City of McKeesport (“City”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.* The City did not respond within five business days of receiving the Request, and the Request was, therefore, deemed denied on May 16, 2024. 65 P.S. § 67.901. On May 17, 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 City did not comply with the RTKL by timely responding to the Request, nor did the City participate on appeal by submitting legal argument or evidence in support of withholding records.¹ Accordingly, the City did not meet its burden of proof under the RTKL. 65 P.S. § 67.305.

For this reason, the appeal is **granted**, and the City is required to provide the requested records² 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.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 OOR website at: <http://openrecords.pa.gov>.

Issued by:

/s/ Tope L. Quadri

APPEALS OFFICER
TOPE L. QUADRI, ESQ.

Sent via portal to: Vaughn Fisher; J. Josh Elash, Esq., AORO

¹ On May 30, 2024, the OOR further extended the filing deadline to allow the City to submit any evidence on appeal to develop the record. To date, the City has not submitted any evidence.

² The Request seeks financial records. Contracts of government agencies are largely public records under the RTKL. *See* 65 P.S. § 67.102 (defining “financial record” as “[a]ny account, voucher or contract dealing with: (i) the receipt or disbursement of funds by an agency; or (ii) an agency’s acquisition, use or disposal of services, supplies, materials, equipment or property”); 65 P.S. § 67.708(c) (“The exceptions set forth in [Section 708(b)] shall not apply to financial records” but for eight specific exceptions).

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