



FINAL DETERMINATION

IN THE MATTER OF

**GINA DEMARIA AND ANTHONY’S WAY
FOUNDATION,
Requester**

v.

**YORK COUNTY,
Respondent**

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Docket No: AP 2025-0516

On January 22, 2025, Gina DeMaria and Anthony’s Way Foundation (collectively “Requester”) filed a request (“Request”) with York County (“County”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking “[a]ll emails from Caitlin Steel to Jonelle Eshbach, Esquire, pertaining to [the Requester], from January 1, 2023, through January 22, 2025.” On February 27, 2025, after invoking a thirty-day extension to respond, *see* 65 P.S. § 67.902(b)(2), the County denied the Request, arguing that responsive records are protected by the attorney-client privilege.

On March 4, 2025, the Requester filed an appeal with the Office of Open Records (“OOR”), arguing that the Request had been deemed denied and stating grounds for disclosure.¹ The OOR

¹ The Requester mailed her appeal to the OOR on February 27, 2025, but the OOR did not receive the appeal until March 4, 2025. The Requester states that, while the County had yet to respond, she anticipates that the County will argue that responsive records are protected by attorney-client privilege.

invited both parties to supplement the record and directed the County to notify any third parties of their ability to participate in this appeal. *See* 65 P.S. § 67.1101(c).

On March 13, 2025, the County submitted a position statement, arguing that the appeal was premature and deficient.² The next day, the OOR ordered the Requester to submit a copy of the County's response;³ the Requester complied on the same day, and the OOR extended the record for submissions.

On March 24, 2025, the County submitted a position statement, arguing that interpreted the Request as seeking emails exchanged only between Ms. Steel and Attorney Eshbach. The County's search uncovered 25 emails including the two parties, but only two of those emails were exchanged solely between Ms. Steel and Attorney Eshbach; the County produced copies of those emails. On April 3, 2025, in response to the OOR's request for clarifying evidence, the County submitted a statement made under the penalties of unsworn falsification to authorities by Attorney Eshbach ("Eshbach Attestation").

The Eshbach Attestation provides:⁴

6. ... [T]he County interpreted the [R]equest as seeking emails that were specifically sent from Caitlin Steel to Jonelle Eshbach as the plain language in the [R]equest suggests.

² The County argued that its response was due on February 28, 2025, while the Requester argues that it was due on February 26, 2025. The OOR notes that five business from January 22, 2025 is January 29, 2025, and thirty calendar days from that date is February 28, 2025. *See* 65 P.S. §§ 67.901-902. An appeal may only be filed upon the denial or deemed denial of a request. 65 P.S. § 67.1101(a). However, the OOR did not receive the appeal until March 4, 2025, after the County had denied the Request. Thus, the appeal is not premature.

³ The County's response, dated February 27, 2025, denied the Request as seeking privileged attorney-client communications.

⁴ Under the RTKL, an affidavit or statement made under penalty of perjury may serve as sufficient evidentiary support. *See Sherry v. Radnor Twp. Sch. Dist.*, 20 A.3d 515, 520-21 (Pa. Commw. Ct. 2011); *Moore v. Off. of Open Records*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010). In the absence of any evidence that the County has acted in bad faith, "the averments in the [attestation] should be accepted as true." *McGowan v. Pa. Dep't of Env't Prot.*, 103 A.3d 374, 382-83 (Pa. Commw. Ct. 2014) (citing *Off. of the Governor v. Scolforo*, 65 A.3d 1095, 1103 (Pa. Commw. Ct. 2013)).

7. As a result, the search was conducted for emails using the parties' names, email addresses with the Requester's name and the name of her foundation for the date range provided for in the [R]equest.

8. A total of twenty-five (25) emails were captured using these criteria.

9. Only two (2) emails out of the twenty-five emails were specifically between Caitlin Steel and Jonelle Eshbach.

10. The other twenty-three (23) emails that were captured included Caitlin Steel, Jonelle Eshbach and other individuals that were not included in the [R]equest.

11. If the Requester was seeking emails that included other individuals, she would have stated that as she submitted three (3) requests for emails on January 15, 2025, that also sought emails that included Caitlin Steel and Jonelle Eshbach along with a multitude of other individuals.

12. It is therefore the County's position that this [R]equest was specifically submitted seeking emails that were exchanged between Caitlin Steel and Jonelle Eshbach.

Agencies can interpret requests, but interpretation must be reasonably based on the text of the request and, if necessary, its context. *See Dunbar v. Pa. Off. of Att'y Gen.*, No. 670 C.D. 2023, 2024 Pa. Commw. Unpub. LEXIS 494, *6 (Pa. Commw. Ct. 2024) (citing *In re Melamed*, 287 A.3d 491, 499 n.15 (Pa. Commw. Ct. 2022) (internal citations omitted)). Here, the County has interpreted the Request in accordance with its plain language. As this interpretation is also supported by the context of the Request, the OOR must conclude that the interpretation is reasonable. Furthermore, because the County has provided records responsive to the Request and the Requester has not challenged the County's production, the appeal is **dismissed as moot**. *See Chester Water Auth. v. Pa. Dep't of Cmty. & Econ. Dev.*, 249 A.3d 1106, 1114 (Pa. 2021) (finding that a matter was settled by provision of records, and thus, "the controversy has been mooted").

Within thirty days of the mailing date of this Final Determination, any party may appeal to the York 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, but as the quasi-judicial tribunal that adjudicated

this matter, the OOR is not a proper party to any appeal and should not be named as a party.⁵ 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 8, 2025

/s/ Blake Eilers

Blake Eilers, Esq.

Senior Appeals Officer

Delivered via e-file portal to: Gina DeMaria and Jonelle Eshbach, Esq.

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