

pennsylvania
OFFICE OF OPEN RECORDS
FINAL DETERMINATION

IN THE MATTER OF

**PATRICIA PAYNE,
Requester**

v.

**KLINE TOWNSHIP,
Respondent**

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Docket No: AP 2026-0336

FACTUAL BACKGROUND

On December 20, 2025, Patricia Payne (“Requester”) submitted a request (“Request”) to Kline Township (“Township”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking:

1. Copies of any and all communications (including but not limited to texts, emails, phone calls, physical letters, sketches, plans, etc.) between January 2023 and December 19, 2025 between Amazon Data Services and...Township Supervisors, Office Staff, Solicitor, Planning Commission, or Zoning Board.
2. Copies of any and all communications (including but not limited to texts, emails, phone calls, physical letters, sketches, plans, etc.) between January 2023 and December 19, 2025 between NorthPoint Development (or any subsidiaries including but not limited to NP Holdings 1 or 2, etc.) and...Township Supervisors, Office Staff, Solicitor, Planning Commission, or Zoning Board.
3. Any and all communications between [the Township] and...Township Municipal Authority regarding data center water usage.

4. Copies of Sketch Plan, or any proposal from Amazon Data Services to...Township Authority.

On January 23, 2026, following a thirty-day extension, 65 P.S. § 67.902(b), the Township denied the Request, asserting that responsive records do not exist in its possession, custody or control. On January 26, 2026, the Requester appealed to the Office of Open Records (“OOR”), challenging the Township’s denial and stating grounds for disclosure. The OOR invited both parties to supplement the record and directed the Township to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

On February 13, 2026, in support of their position, the Requester submitted correspondence stating that a responsive letter from Amazon was sent to the Township, while also providing a news article, personal notes, and a picture from a public meeting.

On February 17, 2026, the OOR notified the parties that no substantive submissions had been received from the Township and extended the filing deadline. That same day, the Township submitted a copy of its final response to the Request at issue. The Township also appeared to provide documentation of its initial response pertaining a separate RTKL request involving the Requester, which is not the subject of this appeal. Finally, the Township provided a copy of a responsive letter from Amazon that was sent to the Township on August 13, 2025.

On February 18, 2026, the Requester submitted correspondence, asserting that although the Township claims that no records exist, its production of the letter from Amazon suggests otherwise. The Requester asserts that a responsive “will serve” letter to the Township’s Water Authority exists, and it is unclear to her why the Township submitted documentation on a different RTKL request that has no bearing on the appeal before the OOR. Additionally, the Requester submitted video evidence where it appears that specified letter is confirmed and discussed.

On February 19, 2026, the Township’s counsel submitted correspondence and an attachment, only asserting that the Township Municipal Authority is a separate local agency from the Township. That same day, the Requester submitted a news article from 2009 that stated that the Township was set to assume control of the Authority.

LEGAL ANALYSIS

The Township 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 Township 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)). Likewise, “[t]he burden of proving a record does not exist ... is placed on the agency responding to the right-to-know request.” *Hodges v. Pa. Dep’t of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011).

1. The appeal is dismissed as moot in part

On February 17, 2026, as stated above, the Township provided the Requester with a copy of a responsive letter from Amazon that was sent to the Township on August 13, 2025. Accordingly, insofar as the Request seeks a record that has been provided during the appeal, the appeal is dismissed as moot as to this record. *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”).

2. The Township has not met its burden under the RTKL

Section 708 of the RTKL places the burden of proof on the public body to demonstrate that a record is exempt from disclosure. 65 P.S. § 67.708(a)(1). Additionally, 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).

However, in the instant matter, the Township has not submitted any substantive submissions in response to the appeal, but rather, submitted only a copy of its final response to the Request and unsworn correspondence from counsel. To date, the Township has not provided any evidence to demonstrate that it conducted a good faith search for records, and that additional responsive records do not exist in its possession, custody or control, or that the records are exempt from public access. Accordingly, the OOR finds that the Township has not met its burden under the RTKL. *See* 65 P.S. § 67.708(a)(1); *Hodges*, 29 A.3d at 1192. As a result, the Township must provide the Requester with any additional responsive records.

CONCLUSION

For the foregoing reasons, the appeal is **granted in part** and **dismissed as moot in part**, and the Township is required to provide all records responsive to the Request in the manner in which they exist within thirty days. If additional responsive records do not exist, the Township is required to provide the Requester with a detailed affidavit or attestation made under the penalty of perjury describing the search for responsive records and affirming their non-existence. 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 Schuylkill 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.¹ 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>.

FINAL DETERMINATION ISSUED AND MAILED: March 2, 2026

/s/ Tope L. Quadri

TOPE L. QUADRI
APPEALS OFFICER

Sent via portal to: Patricia Payne
Gary J. Perna Jr., AORO
Mark Semanchik, Esq.

¹ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).