



pennsylvania

OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF	:	
	:	
BOB RYAN,	:	
Requester	:	
	:	Docket No.: AP 2026-1211
v.	:	Consolidated appeal of OOR Dkt. Nos.
	:	AP 2026-1211 and AP 2026-1212
RIEGELSVILLE BOROUGH,	:	
Respondent	:	

FACTUAL BACKGROUND

On February 26, 2026, Bob Ryan (“Requester”) submitted two requests (“Requests”) to Riegelsville Borough (“Borough”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking:

[Request 1] Full stenographer minutes from Riegelsville Zoning Hearing Board meeting of December 8, 2025 and the follow up meeting when decision was announced regarding change of use for Riegelsville firehouse kitchen/other to office/food preparation

[Request 2] Full stenographer minutes from December 28, 2023 IPMC¹ violation hearing held at Riegelsville Borough building. . . .

On March 4, 2026, the Borough denied the Requests, stating that no responsive records exist in the Borough’s possession, custody, or control.

On March 26, 2026, the Requester appealed to the Office of Open Records (“OOR”),

¹ In the context of the Request, IPMC stands for International Property Maintenance Code, which has been adopted by the Borough in its ordinances. See <https://riegelsville.org/?p=776> (last visited April 21, 2026).

challenging the denial of the Requests² and stating grounds for disclosure. The OOR invited both parties to supplement the record and directed the Borough to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

On April 6, 2026, the Borough submitted position statements, reiterating its grounds for denial that it does not possess the responsive transcripts for either the Zoning Hearing Board meeting on December 8, 2025 or the Building Code Board of Appeals hearing on December 28, 2023. The Borough claims that it does not request the transcripts of the Zoning Hearing Board or Building Code Board of Appeals meetings when the case is not appealed. In support of its position, the Borough submitted the attestations of Sherry Masteller, the Secretary and Open Records Officer for the Borough (“Masteller Attestation”).

On April 8, 2026, the Requester submitted argument that the Borough paid for the stenographer to be present at the meetings/hearings, and the Borough’s failure to request a transcript despite paying the stenographer to be present reflects that the Borough is attempting to unduly deny access to the transcripts. The Requester further argues that the Borough has denied access to stenographic transcripts in the past, which was overturned in the Final Determination docketed at AP 2020-0059.

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

² Because the two appeals involve the same agency, requester and issues, the appeals were consolidated into OOR Dkt. AP 2026-1211. *See* 65 P.S. § 67.1102(b)(3) (stating that “the appeals officer shall rule on procedural matters on the basis of justice, fairness, and the expeditious resolution of the dispute”).

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 Borough proved that it does not possess the requested transcript

The Borough argues that no transcripts exist within its possession, custody or control because, although a stenographer was present at the relevant zoning hearing board meeting, the Borough does not order a transcript unless an appeal is filed. The RTKL sets forth specific procedures for access to transcripts. Section 707(c) of the RTKL provides that

(1) Prior to an adjudication becoming final, binding and nonappealable, a transcript of an administrative proceeding shall be provided to a requester by the agency stenographer or a court reporter, in accordance with agency procedure or an applicable contract.

(2) Following an adjudication becoming final, binding and nonappealable, a transcript of an administrative proceeding shall be provided to a requester in accordance with the duplication rates established in section 1307(b)[.]

65 P.S. § 67.707(c)(1)-(2). Further, the OOR has previously held that where a decision made as a result of an administrative proceeding becomes final and unappealable and no transcript has been made at the request of the parties or the agency, an agency is not required under Section 707(c)(2) to create a transcript in response to an RTKL request. *See e.g., Hudak v. Heidelberg Township*, OOR Dkt. AP 2023-3146, 2024 PA O.O.R.D. LEXIS 4564; *Cox and Martin v. Sewickley Borough*, OOR Dkt. AP 2019-0269, 2019 PA O.O.R.D. LEXIS 421; *but see, Ryan v. Riegelsville Borough*, OOR Dkt. AP 2020-0059, 2020 PA O.O.R.D. LEXIS 1450 (noting that where an agency has already obtained a copy of the transcript of an administrative appeal, the transcript is accessible

under the RTKL).³ As a result, Section 707(c)(2) generally requires that an agency provide a copy of a transcript of a completed proceeding in its possession, subject to the ordinary fees of the RTKL, but does not create any special requirement that the agency obtain transcripts from the stenographer if it has not already done so. *See Simrell and Just Right Place, LLC v. City of Scranton*, OOR Dkt. AP 2024-1616, 2024 PA O.O.R.D. LEXIS 2017.

The Mastellar Attestation states that the Borough does not possess the stenographer's transcript for the December 8, 2025 zoning hearing board meeting because the transcript was not ordered due to the fact that zoning hearing board hearing was not appealed.⁴ *See Mastellar Attestation 1 ¶¶ 4-6*. In relation to the transcript responsive to Request 2, the Mastellar Attestation states that the relevant Building Code Board of Appeals case was not appealed, and the Borough does not request production of transcripts when a case is not appealed. *See Mastellar Attestation 2 ¶¶ 4-6*. A statement made under the penalty of perjury is competent evidence to sustain an agency's burden of proof under the RTKL. *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). As a result, the Borough has met its burden of proving the transcripts are not in its possession, custody or control. Based on the circumstances present here, the Borough is not required under Section 707(c)(2) of the RTKL to obtain a transcript from the stenographer to provide to the Requester. *See 65 P.S. § 67.705*.

CONCLUSION

For the foregoing reasons, the appeal is **denied**, and the Borough is not required to take

³ The Requester cites to this prior Final Determination involving both parties, where the Borough was directed to provide a copy of a transcript to the Requester. The facts of that appeal are different than the instant appeal in that the Borough had already obtained and was in possession of the requested transcripts. Here, the Borough has made clear that it did not request the transcripts of the relevant zoning hearing board meeting and thus, does not have them.

⁴ It is typical in court proceedings that a stenographer be paid both for his or her time spent at the proceeding and also for the reproduction of the stenographic transcripts taken at the proceeding.

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 Bucks 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, but 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.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 OOR website at: <http://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: April 28, 2026

/s/ Catherine R. Hecker

CATHERINE R. HECKER
APPEALS OFFICER

Sent via portal to: Bob Ryan
 Sherry Masteller
 Scott MacNair, Esq.

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