

## FINAL DETERMINATION

DATE ISSUED AND MAILED: May 7, 2026

IN RE: *Thomas Bowen v. Lackawanna County*; OOR Dkt. AP 2026-1657

On March 27, 2026, Thomas Bowen, Esq. (“Requester”) emailed a request (“Request”) to Lackawanna County (“County”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.* The County did not respond within five business days, and the Request was, therefore, deemed denied on April 3, 2026. 65 P.S. § 67.901. On April 24, 2026, the Requester filed an appeal with the Office of Open Records (“OOR”).<sup>1</sup>

Local agencies have the burden of proving that records are exempt from access. 65 P.S. § 67.708(a)(1). Here, the County did not comply with the RTKL by timely responding to the Request, nor did the County participate on appeal by submitting legal argument or evidence in support of withholding records.<sup>2</sup> Accordingly, the County did not meet its burden of proof under the RTKL. 65 P.S. § 67.305.

For this reason, the appeal is **granted**, the County is required to provide the requested records 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 Lackawanna 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.<sup>3</sup> All documents or communications following the issuance of this Final Determination shall be sent to [oor-postfd@pa.gov](mailto:oor-postfd@pa.gov). This Final Determination shall be placed on the website at: <http://openrecords.pa.gov>.

Issued by:

*/s/ Joshua T. Young*

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JOSHUA T. YOUNG, ESQ.  
SENIOR DEPUTY CHIEF COUNSEL

Sent via OOR e-file portal to: Thomas Bowen, Esq.; Traci Harte, AORO

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<sup>1</sup> The instant appeal was reassigned to the undersigned Appeals Officer for disposition on May 7, 2026.

<sup>2</sup> Notably, the County’s Open Records Officer accessed the OOR’s e-file portal system and viewed appeal documents on April 27, 2026 and May 5, 2026.

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