



# pennsylvania

OFFICE OF OPEN RECORDS

## FINAL DETERMINATION

**IN THE MATTER OF**

:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:

**VICTOR PEREZ,**  
**Requester**

**v.**

**: Docket No: AP 2026-1315**

**READING PARKING AUTHORITY,**  
**Respondent**

## **FACTUAL BACKGROUND**

On February 23, 2026, Victor Perez (“Requester”) submitted a request (“Request”) to the Reading Parking Authority (“Authority”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking the following:

... [C]opies of records sufficient to identify the specific legal authority relied upon by the ... Authority to assert that parking enforcement is authorized on a 24-hour-per-day, 7-day-per-week basis pursuant to City ordinance. Specifically, please provide the complete text of the City of Reading ordinance(s), including ordinance number, codified section number, adoption date, and effective date, that authorize continuous 24-hour parking enforcement. Please also provide copies of all amendments, revisions, repeals, reenactments, or recodifications affecting enforcement hours from January 1, 2008 to present, including the ordinance numbers and effective dates of each change.

On April 1, 2026, following a thirty-day extension during which to respond, 65 P.S. § 67.902(b), the Authority denied the Request (“Final Response”), asserting that it was misdirected and that it should have been submitted to the City of Reading (“City”). *See* 65 P.S. § 67.502(b)(1).

On April 2, 2026, the Requester appealed to the Office of Open Records (“OOR”), challenging the denial. The OOR invited both parties to supplement the record and directed the Authority to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

On April 7, 2026, the Requester filed a copy of the Authority’s March 2, 2026 thirty-day extension notice to respond to the Request and two submissions, arguing that the Final Response does not address whether responsive records exist, that the Authority acted in bad faith and that it failed to demonstrate that a good faith search was conducted.

On April 8, 2026, the Requester submitted a copy of the Final Response and two submissions, clarifying that he mistakenly attached and referenced a second request dated February 23, 2026 (“Request 2”) in his initial appeal filing. He further asserted that the Authority’s denial of the instant Request as misdirected is legally deficient.

On April 13, 2026, the Authority made a submission, pertaining to Request 2. In response, that same day, the Requester filed an additional submission, renewing his previous arguments and further asserting that the Authority failed to show that the Request is disruptive under 65 P.S. § 67.506(a).

On April 14, 2026, the OOR advised the parties that the Authority’s April 13, 2026 submission pertained to Request 2, not the instant Request. In addition, the OOR provided the Authority additional time, until April 22, 2026, to supplement the record.

On April 15, 2026, upon the agreement of the Requester, the OOR extended the deadline for the issuance of the Final Determination in this matter to June 1, 2026.<sup>1</sup>

---

<sup>1</sup> See 65 P.S. § 67.1101(b)(1) (“Unless the requester agrees otherwise, the appeals officer shall make a final determination which shall be mailed to the requester and the agency within 30 days of receipt of the appeal filed under subsection (a)”).

On April 22, 2026, the Authority filed copies of the Request and the Final Response, as well as the attestation of Mahlon J. Boyer, Esq. (“Boyer Attestation”), Authority Solicitor and Agency Open Records Officer (“AORO”), who renewed the Authority’s grounds for denial and further asserted that the requested records do not exist.<sup>2</sup>

In response, that same day, the Requester made a submission, reiterating his previous arguments, challenging the sufficiency of the Boyer Attestation and further asserting that the Authority failed to demonstrate that no responsive records exist or to search for and produce the Amended Cooperation Agreement between the Authority and the City.<sup>3</sup>

### LEGAL ANALYSIS

The Authority 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 Authority 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-

---

<sup>2</sup> The Boyer Attestation is made subject to penalties under 18 Pa.C.S. § 4904, relating to unsworn falsifications to authorities.

<sup>3</sup> While the parties’ submissions and arguments also pertained to Request 2, which was denied by the Authority under 65 P.S. § 67.506(a), the Requester clarified on April 8, 2026, that Request 2 is not actually at issue in this appeal. Therefore, Request 2 will not be further addressed in this Final Determination. Additionally, we note that Request 2 was already at issue in a separate appeal before the OOR that was dismissed for noncompliance on April 24, 2026. *See Perez v. Reading Parking Auth.*, OOR Dkt. AP 2026-1401, 2026 PA O.O.R.D. LEXIS 1415.

know request.” *Hodges v. Pa. Dep’t of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011) (citing 65 P.S. § 67.708).

### **1. The Request cannot be modified or expanded on appeal**

On appeal, the Requester asserts that the Boyer Attestation demonstrates that an Amended Cooperation Agreement between the Authority and the City exists, and that it is responsive to the Request because it “defines the scope of the Authority’s enforcement power.” However, said Agreement was not expressly sought in the Request; instead, the Request facially seeks the complete text of the City’s ordinances, and any amendments, revisions, repeals, reenactments or recodifications thereto, which identify the specific legal authority relied upon by the “Authority to assert that parking enforcement is authorized on a 24-hour-per-day, 7-day-per-week basis pursuant to City ordinance.”

To the extent that the Requester is now attempting to modify or expand the Request on appeal to seek the Amended Cooperation Agreement, such is impermissible and cannot be considered by the OOR. *See McKelvey v. Off. of the Att’y Gen.*, 172 A.3d 122, 125 (Pa. Commw. Ct. 2017) (“Once a RTKL request is submitted, the requester may not expand or modify the request on appeal”); *see also Michak v. Pa. Dep’t of Pub. Welfare*, 56 A.3d 925, 930 (Pa. Commw. Ct. 2012) (holding that “where a request[e]r requests a specific type of record ... the request[e]r may not, on appeal, argue that an agency must instead disclose different records in response to the request”). However, nothing in this Final Determination prevents the Requester from submitting a new RTKL request to the Authority for that Agreement, and if necessary, filing a new appeal with the OOR pursuant to the requirements under 65 P.S. § 67.1101(a)(1).

## 2. The Authority demonstrated that no responsive records exist

The Authority argues that no responsive records exist. In response to a request for records, “... an agency shall make a good faith effort to determine ... whether the agency has possession, custody or control of the identified record[.]” 65 P.S. § 67.901. While the RTKL does not define the term “good faith effort,” in *Uniontown Newspapers, Inc. v. Pa. Dep’t of Corr.*, the Commonwealth Court stated:

As part of a good faith search, the open records officer has a duty to advise all custodians of potentially responsive records about the request, and to obtain all potentially responsive records from those in possession... When records are not in an agency’s physical possession, an open records officer has a duty to contact agents within its control, including third-party contractors ... After obtaining potentially responsive records, an agency has the duty to review the records and assess their public nature under ... the RTKL.

185 A.3d 1161, 1171-72 (Pa. Commw. Ct. 2018) (citations omitted) (*Uniontown Newspapers I*), *aff’d*, 243 A.3d 19 (Pa. 2020) (*Uniontown Newspapers II*). An agency must show, through detailed evidence submitted in good faith from individuals with knowledge of the agency’s records, that it has conducted a search reasonably calculated to uncover all relevant documents. *See Burr v. Pa. Dep’t of Health*, OOR Dkt. AP 2021-0747, 2021 PA O.O.R.D. LEXIS 750; *see also Mollick v. Twp. of Worcester*, 32 A.3d 859, 875 (Pa. Commw. Ct. 2011).

In support of the Authority’s position, the Boyer Attestation provides, in part, as follows:

4. The [Authority] enforces on-street parking in the City ... pursuant to an Amended Cooperation Agreement between the [Authority] and the City. The [Authority] enforces ordinances that the City enacts, such as, a prohibition against vehicles parked in front of a fire hydrant.
5. There is no specific City ordinance that states that its ordinances are to be enforced 24/7/365. There doesn’t need to be. Ordinances do not go to sleep at night. Is there any good time for someone to park in front of a fire hydrant? Should a vehicle without a handicap placard park in a handicap space simply because a certain time of day has arrived?
6. The City can choose to limit enforcement to specific times of day, which it is

does for parking meters. Otherwise, to the knowledge of ... [Attorney Boyer], the City does not limit enforcement of its parking ordinances.

7. ... [Attorney Boyer] pointed [the Requester] to the City for his Request because the City is the enabling body for the ordinances he is asking about.
8. The [Authority] relies upon the public[ly] available information from the City to review City ordinances. The [Authority] and ... [Attorney Boyer] use the City's website to access parking ordinances. The [Authority] does not have in its possession the "amendments, revisions, repeals, reenactments or recodifications affecting enforcement from January 1, 2008 to the present." However, the City may well have those documents and that is why [the Requester] was directed to the City.

Boyer Attestation, ¶¶ 4-8.

In *Pa. Dep't of Health v. Mahon*, the Commonwealth Court discussed the evidence required to establish the absence of records, quoting its previous decision in *Hodges v. Pa. Dep't of Health*, which held that an agency "may satisfy its burden of proof ... with either an unsworn attestation by the person who searched for the record or a sworn affidavit of nonexistence of the record." 283 A.3d 929, 936 (Pa. Commw. Ct. 2022) (quoting *Hodges*, 29 A.3d at 1192). The Court reasoned that "[i]t is questionable to what degree additional detail and explanation are necessary to establish the nonexistence of a record rather than its exemption from disclosure," and that "[i]n the absence of any competent evidence that an agency acted in bad faith or that the agency records exist, the averments in such affidavits [of non-existence] should be accepted as true." *Mahon*, 283 A.3d at 936 (citing *Smith Butz, LLC v. Pa. Dep't of Env't Prot.*, 142 A.3d 941, 945 (Pa. Commw. Ct. 2016)).

Here, the Authority's evidence is authored by Attorney Boyer, who, as Authority Solicitor and AORO, is familiar with its records. See Boyer Attestation, ¶¶ 1-8. The evidence affirms that the Authority "enforces ordinances that the City enacts," and that it also enforces on-street parking pursuant to its Amended Cooperation Agreement with the City. See *id.* at ¶ 4. The evidence

further demonstrates that Attorney Boyer determined that no responsive records exist within the possession, custody or control of the Authority because “[t]here is no specific City ordinance that states that its ordinances are to be enforced 24/7/365[,]” and the City currently only limits parking enforcement to specific times of day for parking meters. *Id.* at ¶¶ 5-6. The evidence also reflects that the Authority accesses the City’s ordinances via the City website, and that the Authority “does not have in its possession the [requested] ‘amendments, revisions, repeals, reenactments or recodifications affecting enforcement from January 1, 2008 to the present.’” *Id.* at ¶ 8. Additionally, the evidence shows that the Authority denied the Request as misdirected “because the City is the enabling body for the ordinances [the Requester] is asking about[,]” and may possess the requested records. *Id.* at ¶¶ 7-8.<sup>4</sup> Moreover, the Requester has not presented any competent evidence that contradicts the Boyer Attestation or that establishes that responsive records actually do, in fact, currently exist.

Accordingly, the Authority has established, by a preponderance of the evidence, that no responsive records exist within the possession, custody or control of the Authority.<sup>5</sup> *See Mahon, supra; see also Campbell v. Pa. Interscholastic Athletic Ass’n*, 268 A.3d 502 (Pa. Commw. Ct. 2021) (noting that an agency need only prove the nonexistence of records by a preponderance of

---

<sup>4</sup> While there is no indication in the appeal record that the Authority forwarded the Request to the City under 65 P.S. § 67.502(b)(1) or provided the Requester with contact information for the City’s AORO, such is not an aspect of a agency’s good faith search under 65 P.S. § 67.901. *See* 65 P.S. § 67.502(b)(1) (“The open-records officer shall ... direct requests to other appropriate persons within the agency or to appropriate persons in another agency ...”); *see also Lester v. Pa. Dep’t of State*, OOR Dkt. 2024-3150, 2025 PA O.O.R.D. LEXIS 162, \* 7 n.6; *Metzner v. City of Phila. Mayor’s Off.*, OOR Dkt. AP 2023-3088, 2024 PA O.O.R.D. LEXIS 683,\*9. Further, the Authority has no obligation under the RTKL to obtain responsive records from a separate agency, such as the City. *See generally, Mutchler v. Pa. Off. of Admin.*, 334 A.3d 57, 2025 Pa. Commw. LEXIS 50 (Pa. Commw. Ct., Mar. 18, 2025) (in the context of the applicability of 65 P.S. § 67.506(d)(1), the Commonwealth Court explained that the RTKL does not “require one agency to obtain from another agency information that the requester could get from that other agency directly”), *petition for allowance of appeal granted in limited part*, No. 196 MAL 2025, 2025 Pa. LEXIS 1472 (Sept. 23, 2025).

<sup>5</sup> Despite the Requester’s arguments, the OOR makes no determinations as to whether responsive records *should* exist, as our inquiry is limited to only whether or not records are “in existence and in possession of the ... agency at the time of the right-to-know request.” *Moore v. Off. of Open Records*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010); *see also* 65 P.S. § 67.705.

the evidence, the lowest evidentiary standard, and is tantamount to a “more likely than not” inquiry).

### **3. The OOR declines to make a finding of bad faith**

The Requester argues that the Authority has engaged in a pattern of improperly invoking thirty-day extensions for legal review, subsequently denying the instant Request and three other February 2026 RTKL requests under 65 P.S. § 67.506(a) or as misdirected, and by failing to produce responsive records.<sup>6</sup> He further asserts that “[t]his repeated sequence demonstrates that the extension process is not being used to facilitate a good faith search or substantive legal review, but rather as a mechanism to delay non-substantive denials.”

While the OOR may make a finding of bad faith, only a court may impose related penalties. *See* 65 P.S. §§ 67.1304(a), 67.1305. Under the RTKL, a finding of bad faith may be appropriate where an agency refuses to comply with its statutory duties. *See Uniontown Newspapers I*, 185 A.3d at 1171-74 (bad faith involves failing to perform a good faith search and review of records to ascertain if the requested material exists or if any exclusion applies prior to denial of access); *see also Off. of the Dist. Att’y. of Phila. v. Bagwell*, 155 A.3d 1119, 1140-41 (Pa. Commw. Ct. 2017) (a finding of bad faith was warranted where the agency based a denial on the identity of the requester, refused to provide a legal rationale for denial and did not perform a good faith search). However, such a finding is typically reserved only for an egregious or blatant violation of the RTKL.

---

<sup>6</sup> The Requester also argues that the Authority acted in bad faith because the Final Response fails to describe the search for responsive records and because the Authority is delaying “assertion[s] of threshold defenses.” Contrary to those arguments, an agency is not required to produce evidence in support of a denial or to demonstrate that a good faith search was conducted at the response stage of the RTKL process. *See generally*, 65 P.S. §§ 67.901, 67.903. Additionally, an agency may raise new grounds for denial on appeal. *See Levy v. Senate of Pa.*, 65 A.3d 361, 383 (Pa. 2013).

Here, the Authority invoked a valid thirty-day extension to respond to the Request on March 2, 2026, which was within five business days of its receipt of the Request on February 23, 2026, stating that “a legal review is needed to determine whether the record is subject to access.” *See* 65 P.S. § 67.902(a)(4) (indicating that “a legal review ... to determine whether the record is a record subject to access under” the RTKL is a permissible reason for invoking an extension to respond to a request); *see also* 65 P.S. § 67.902(b)(1).<sup>7</sup> As the Authority’s March 2, 2026 extension was invoked for a permissible reason under the RTKL, the OOR will not review the Authority’s discretion to invoke said extension.

In addition, the Authority issued a timely Final Response to the Request, it participated on appeal and it provided clarification when directed by the OOR. Contrary to the Requester’s arguments regarding a good faith search and the Authority’s alleged failure to produce responsive records, we have already determined above that the Authority’s evidence is sufficient to establish that no responsive records exist within the possession, custody or control of the Authority. Therefore, the OOR declines to make a finding of bad faith in this matter.

### CONCLUSION

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

---

<sup>7</sup> The Requester’s other three February 2026 RTKL requests were already at issue in *Perez v. Reading Parking Auth.*, OOR Dkt. AP 2026-1340, 2026 PA O.O.R.D. LEXIS 1674; OOR Dkt. AP 2026-1341, 2026 PA O.O.R.D. LEXIS 1677; and OOR Dkt. AP 2026-1401, 2026 PA O.O.R.D. LEXIS 1415. To the extent that the Requester is now attempting to challenge the thirty-day extensions or the Final Determinations issued in those matters, such is impermissible because the Requester was advised of the process for appealing those Final Determinations, and the OOR has no authority to reopen said appeals at this docket.

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>8</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 OOR website at: <http://openrecords.pa.gov>.

**FINAL DETERMINATION ISSUED AND MAILED: May 22, 2026**

*/s/ Megan Burns*

---

MEGAN BURNS  
APPEALS OFFICER

Sent via OOR Portal to: Victor Perez; Mahlon J. Boyer, Esq., AORO

---

<sup>8</sup> *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).