



pennsylvania

OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF	:
	:
STUART DAY AND OHIO VALLEY	:
ALLIES,	:
Requester	:
	: Docket No: AP 2026-1877
v.	:
	:
BEAVER COUNTY,	:
Respondent	:

On March 26, 2026, Stuart Day and Ohio Valley Allies (collectively “Requester”) filed a request (“Request”) with Beaver County (“Township”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking:

All records, including emails, correspondence, memoranda, planning documents, zoning communications, calendar entries, attachments, and meeting notes, involving [C]ounty officials or employees referencing Pittsburgh International Race Complex, PittRace, Big Beaver Borough Ordinance 245, Big Beaver Ordinance 246, Data Center or the property located at 201 Penndale Rd in Big Beaver Borough, Beaver County from January 1, 2024 through the date of this [R]equest.

This [R]equest includes any related data center, server farm, or large-scale power infrastructure discussions connected to Big Beaver Borough, my property located at 201 Penndale Rd, or directly adjacent parcels associated with that property ... includ[ing] communications with any developer, consultant, utility or third party ... [and] communications with any consultant, planner, engineer, or legal advisor. This [R]equest includes attachments to emails and documents received from or sent to third parties.

On April 30, 2026, after invoking a thirty-day extension to respond, *see* 65 P.S. § 67.902(b), the Township granted the Request, providing a flash drive with responsive records and an invoice in the amount of \$57.75.¹

On May 12, 2026, the Requester filed an appeal with the Office of Open Records (“OOR”), arguing that the response was incomplete and stating grounds for disclosure. The OOR invited both parties to supplement the record and directed the County to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

On May 18, 2026, the County submitted a position statement, arguing that, aside from a letter enclosed with the submission, no other records exist. In support, the County submitted statements made under the penalties of unsworn falsification to authorities by Stacey Householder (“Householder Attestation”), the County’s Open Records Officer (“AORO”); Daniel Distler (“Distler Attestation”), Director of the Planning and Redevelopment Office; Echo Funk (“Funk Attestation”), Administrative Assistant for County Commissioner Jack Manning; Sydney Carlin (“Carlin Attestation”), Administrative Assistant for Daniel C. Camp, Chairman of the County Board of Commissioners; and Nicole Long (“Long Attestation”), the County’s Chief Clerk and Administrative Assistant for County Commissioner Tony Amadio.

Initially, the County has produced one additional responsive record on appeal. Accordingly, insofar as the Request sought that letter, the appeal is 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”).

¹ While the Requester does not challenge the fee on appeal, the County assessed a fee of \$10 for the flash drive and \$.25 per page for 191 pages. The OOR notes that while agencies can generally not charge for records delivered electronically, agencies may assess a fee for electronic records where the agency is unable to securely redact the records by electronic means and must print the records to provide for secure redaction. *See* <https://www.openrecords.pa.gov/RTKL/FeeStructure.cfm> (last accessed June 3, 2026).

The County argues that no other responsive records exist. “The 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). An attestation by the individual who searched for responsive records is sufficient to meet an agency’s burden of proving the nonexistence of a record. *Id.*

However, the Requester argues that the County did not conduct a good faith search. In response to a request for records, an agency is required to “make a good faith effort to determine if ... the agency has possession, custody or control of the record.” 65 P.S. § 67.901. While the RTKL does not define the term “good faith effort” as used in Section 901 of the RTKL, in *Uniontown Newspapers, Inc. v. Pennsylvania Department of Corrections*, 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), *aff’d*, 243 A.3d 19 (Pa. 2020).

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 Mollick v. Twp. of Worcester*, 32 A.3d 859, 875 (Pa. Commw. Ct. 2011).

Here, the Householder Attestation provides that AORO Householder identified the Planning and Redevelopment Authority Office and the Board of Commissioners Office as the only two offices in the County that would have responsive records. *See generally* Householder

Attestation. AORO Householder forwarded the Request to each Office and provided all records she received from those Offices to the Requester; she is aware of no other responsive records. *Id.* The Distler Attestation provides that he searched the digital and physical files of the Planning and Redevelopment Office, and the Funk, Carlin and Long Attestations affirm that they searched the email inboxes and sent items of the respective Commissioners for whom they work and forwarded all responsive records to AORO Householder. *See generally* Distler, Funk, Carlin and Long Attestations.

The Requester argues that the County's response appears to be incomplete because the files are overwhelmingly one-way emails from concerned citizens to commissioners and do not include internal county communications, intergovernmental communications, calendar entries, meeting notes or other records that would be expected to exist for a project of this significance. He also argues that the records that were provided show that there was public outreach and at least one reporter asking for comment. Given that context, he argues, it is difficult to reconcile the apparent absence of additional records.

However, the Requester provides no evidence that additional records do exist or otherwise causing the OOR to question the evidence presented by the County. Therefore, notwithstanding the Requester's speculation to the contrary, the County has presented evidence of a search reasonably designed to locate all responsive records and affirming that no other records exist. *See Pa. Dep't of Health v. Mahon*, 283 A.3d 929, 936 (Pa. Commw. Ct. 2022) (finding that in the absence of countervailing evidence establishing that the agency acted in bad faith or that records exist, averments of nonexistence should be accepted as true); *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 the evidence, the lowest evidentiary standard, and

is tantamount to a “more likely than not” inquiry). Accordingly, the County has met its burden of proving that no additional records exist in its possession, custody, or control. *See Hodges*, 29 A.3d at 1192.

For the foregoing reasons, the appeal is **denied in part** and **dismissed as moot in part**, and the County 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 Beaver 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 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.² 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: June 8, 2026

/s/ Blake Eilers
Blake Eilers, Esq.
Senior Appeals Officer

Delivered via e-file portal to: Stuart Day; Stacey L. Householder

² *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).