



# pennsylvania

OFFICE OF OPEN RECORDS

## FINAL DETERMINATION

IN THE MATTER OF

JACK WILLIAMS  
Requester

v.

CITY OF JOHNSTOWN,  
Respondent

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Docket No: AP 2026-1996

## FACTUAL BACKGROUND

On April 6, 2026, Jack Williams (“Requester”) submitted a request (“Request”) to the City of Johnstown (“City”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking:

[Section A contains background information and is omitted for brevity]

### SECTION B

Thru the filing of this RTK Request, I am seeking access to the following [City] legislative actions pertaining to the hiring of Ameer Willet as General Solicitor, effective May 1, 2025, including, but not limited to the following:

- a) Access to Resolution No. 105717 as listed in the City Council Meeting Minutes of Wednesday, April 9, 2025, with pages All Pages (2) thru (13), were listed as being: showing as: Wednesday, March 12, 2025, Stated Meeting, on the respective Page numbered ([2-13]).
- b) Access to the amended Council Meeting Minutes of Wednesday, April 9, 2025, to correct errors and omissions of the incorrect dates on Pages (2) thru (13), reading as [corrected information omitted].
- c) Access to Resolution No. 10681 with the required date of passage, and the Attestation as to being:[ attestation omitted].
- d) Access to executed agreement between the City[] and Aimee Willet, Esquire for the hiring a General Solicitor effective May 1, 2025, including, but not limited to, the terms and conditions as follows:

- 1) Retainer Fees, if any
- 2) Professional Service Hourly Compensation Fees Re: (Attendance Council Meeting, Special and Regular, Executive Sessions, [City's] Boards, Authority and Commissions, consultations with City Administrative staff, requested Legal Opinions, pursuant to Home Rule Charter[. ...])
- 3) Professional Service Hourly Compensation Court Representation Fees Attendance in and before Cambria County Court of Common Pleas, the Offices of the District Courts of the Commonwealth, the Commonwealth of Pennsylvania Appellate Courts, and the U.S. Federal Courts on behalf of the City [], in criminal and/or civil matters.

### **SECTION C**

Thru the filing of this [Request], I am seeking records, including billing invoices submitted by Aimee Willett, Esquire, in her capacity [as] a General Solicitor for the [City], effective May 1, 2025, as follows: ["Billing Period" dates omitted for brevity].

- a) Access is being sought for invoices which include dates of Professional Legal Service, as City[] appointed/General Solicitor rendered, total amount of Professional Service fees for each date of service in the capacity as the City[] appointed/General Solicitor.
- b) Access is being sought for the [City's] Department of Finances issuance of payment in response to invoiced billing, submitted by [Aimee] Willett, Esquire, for services rendered in her capacity [as] a General Solicitor for the City [], effective May 1, 2025, and for the monthly periods indicated above.
- c) The [City's] 2025 General Fund Budget, adopted by Resolution No. 10659, and on December 11, 2024, including the following 2025 Enacted Expenditure Appropriations: ["Account Number" and "Account Description" omitted for brevity].

On May 13, 2026, following a thirty-day extension during which to respond,<sup>1</sup> 65 P.S. § 67.902(b), the City granted the Request in part, providing records responsive to Section C, and denied the Request in part, redacting records protected by the attorney-client privilege and arguing that the City is not required to create records that do not exist in response to Section B (a-d), 65 P.S. § 67.705.<sup>2</sup>

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<sup>1</sup> The Requester argues that there was "[n]o notice by the [City] exercising the (30) day extension in responding to the April 6, 2026 RTK Request." However, as previously determined by the OOR in *Williams v. City of Johnstown*, OOR Dkt. AP 2026-1551, 2026 PA O.O.R.D, the City properly invoked a thirty-day extension of time on April 8, 2026 and, therefore, had until May 13, 2026 to issue a final response.

<sup>2</sup> The City notes that, relating to Section B(a), "Resolution No. 105717, as listed in the April 9, 2025 City Council Meeting Minutes, is the same as Resolution No. 10681, which can be found on the City website."

On May 20, 2026, the Requester appealed to the Office of Open Records (“OOR”), challenging the denial and stating grounds for disclosure.<sup>3</sup> The OOR invited both parties to supplement the record and directed the City to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

On June 2, 2026, the City submitted the affidavit, made subject to the penalties of unsworn falsification to authorities, 18 Pa.C.S. § 4904, of Arturo Martynuska (“Martynuska Affidavit”), City Manager, asserting that it provided the Requester with all records responsive to the Request and that there are no additional records responsive to the Request.

On June 7, 2026, the Requester submitted a position statement, arguing that “[t]he June 2, 2026 Affidavit, executed by Arturo Martynuska, Johnstown City Manager, fails to provide a true and accurate acknowledge[ment] of the [City’s] official records of March 12, 2025, and April 9, 2025, and should be held accountable under provisions of the [RTKL].

### **LEGAL ANALYSIS**

The City 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 City 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)).

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<sup>3</sup> As part of Requester’s appeal, he provided 107 pages of responsive records. *See* Appeal, pages 18-123.

The City asserts that it has provided all records responsive to the Request to the Requester. In response to a request for records, “an agency shall 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,” 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), *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 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 City’s assertion that it has no additional records responsive to the Request, the City has provided the Martynuska Affidavit,<sup>4</sup> authored by the City Manager. As the City Manager, the City’s Open Records Officer Hutzler notified Mr. Martynuska of the Request. Martynuska Affidavit, ¶ 4. Mr. Martynuska reviewed the City’s final response sent to the Requester, along with the responsive documentation provided to the Requester, and determined

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<sup>4</sup> Under the RTKL, a sworn statement made under the 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. Office of Open Records*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010). In the absence of any evidence that the City has acted in bad faith or that additional records exist, “the averments in [the affidavit] should be accepted as true.” *McGowan v. Pa. Dep’t of Envtl. Prot.*, 103 A.3d 374, 382-83 (Pa. Commw. Ct. 2014) (citing *Office of the Governor v. Scolforo*, 65 A.3d 1095, 1103 (Pa. Commw. Ct. 2013)).

that the documentation provided “is the only responsive documentation that exists.” *Id.* at ¶¶ 5-6. Mr. Martynuska, who was present at the City Council meeting on March 12, 2025 when the City Council approved the resolution hiring Attorney Aimee Willett, provided that resolution to the Requester. *Id.* at ¶¶ 7-9. In addition, Mr. Martynuska explains that the at-issue “Resolution 105717” was initially misnumbered but later administratively corrected internally, that the City Council took no official action to correct the at-issue misnumbered resolution, and that there are no amended meeting minutes corresponding with the renumbering of the at-issue resolution. *Id.* at ¶¶ 10-12. Finally, Mr. Martynuska affirms that since her approval as Solicitor, “no written contract with Attorney Willett was negotiated or signed by the City, City [O]fficials or City Council”; that “Attorney Willett’s hourly rate for general solicitor work has been \$145 per hour and \$165 per [hour] for specialized work, inclusive of litigation”; that the records provided to the Requester<sup>5</sup> [are] a complete copy of the records responsive to the Request; and that “[n]o other documentation responsive to [the Request] exists.” *Id.* at ¶¶ 13-16.

Accordingly, based on the evidence provided, the City has met its burden of proof that additional responsive records do not exist in its possession, custody or control.<sup>6</sup> *See Hodges v. Pa. Dep’t of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011) (“[t]he burden of proving a record does not exist ... is placed on the agency responding to the right-to-know request”); *Pa. Dep’t of Health v. Mahon*, 283 A.3d 929 (Pa. Commw. Ct. 2022) (holding that, when there is evidence that a record does not exist, “[i]t is questionable to what degree additional detail and explanation are necessary....”); *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

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<sup>5</sup> The records that were submitted along with Requester’s appeal.

<sup>6</sup> Despite the Requester’s arguments that additional records must exist, the OOR makes no determinations as to whether additional 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*, 992 A.2d at 909.

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

### CONCLUSION

For the foregoing reasons, the Requester’s appeal is **denied**, and the City 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 Cambria 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, 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.<sup>7</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>.

**FINAL DETERMINATION ISSUED AND MAILED: June 12, 2026**

*/s/ Lyle Hartranft*  
Lyle Hartranft, Esq.  
Appeals Officer

Sent via e-file portal to: Jack Williams; Josie Hutzler, AORO;

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<sup>7</sup> *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).