

FINAL DETERMINATION

DATE ISSUED AND MAILED: July 10, 2026

IN RE: *Brenda Dixon v. Taylor Borough*; OOR Dkt. AP 2026-2442

On May 26, 2026, Brenda Dixon (“Requester”) submitted a request (“Request”) to Taylor Borough (“Borough”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.* On June 1, 2026, the Borough partially denied the Request, providing some records to the Requester and arguing that other records reflect internal, predecisional deliberations, constitute notes and working papers, and relate to a noncriminal investigation, 65 P.S. §§ 67.708(b)(10), (b)(12), (b)(17). The Borough also argues that some records are protected by privilege. On June 22, 2026, the Requester filed an appeal with the Office of Open Records (“OOR”).¹

Local agencies have the burden of proving that records are exempt from access. 65 P.S. § 67.708(a)(1). Despite logging into the OOR’s e-file portal system and viewing the appeal documents, the Borough did not submit legal argument or evidence in support of its reasons for withholding records. 65 P.S. § 67.708(a). Accordingly, the Borough did not meet its burden of proof under the RTKL. 65 P.S. § 67.305. However, on its face, the Request clearly seeks complaints and investigative reports concerning alleged violations of the Borough’s ordinances related pool fencing. Therefore, insofar as the responsive records include non-criminal complaints and reports investigated pursuant to the Borough’s code enforcement authority, they may be withheld. *See* 65 P.S. § 67.708(b)(17)(i)-(ii); *see also Pa. Game Comm’n v. Fennell*, 149 A.3d 101 (Pa. Commw. Ct. 2016) (holding that the OOR must consider uncontradicted statements in the appeal filing); *see also Office of the Governor v. Davis*, 122 A.3d 1185, 1194 (Pa. Commw. Ct. 2015) (*en banc*) (finding that an affidavit may be unnecessary when an exemption is clear from the face of the record).

For this reason, the appeal is **granted in part** and **denied in part**, the Borough is required to provide the requested records to the Requester within thirty days, as described above or, in the alternative, a sworn affidavit or 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.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>.

¹ This appeal was reassigned to the undersigned Appeals Officer for disposition on July 10, 2026.

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

Final Determination Issued by:

/s/ Joshua T. Young

JOSHUA T. YOUNG
SENIOR DEPUTY CHIEF COUNSEL

Sent via OOR e-file portal to: Brenda Dixon; Cynthia Bellucci, Taylor Borough