



FINAL DETERMINATION

DATE ISSUED: July 10, 2026

IN RE: *A. Miller v. St. Mary's City*, OOR Dkt. AP 2026-2412

Upon review of the appeal filed with the Office of Open Records (“OOR”) to the above-referenced docket number, as well as the St. Mary’s City’s (“City”) submission,¹ it is determined that the appeal is **DISMISSED** because:

The appeal is premature. The appeal states that the Request was filed on June 5, 2026, and deemed denied on June 12, 2026; however, the City never received a copy of the Request. *See Hughes Attestation*, ¶¶ 5-9. Because an appeal may only be filed from the denial or deemed denial of a request, and the City **did not receive the Request prior to receiving the appeal**, the appeal must be dismissed as premature.² 65 P.S. § 67.901. The Requester is not prohibited from filing the Request with the City and, if necessary, filing an appeal with the OOR pursuant to the requirements of 65 P.S. § 67.1101(a)(1).

For this reason, the City is not required to take any further action. Within thirty days of the mailing date of this Final Determination, either party may appeal or petition for review with the Elk 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.³ 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>.

Issued by:

/s/ *Damian J. DeStefano*

DAMIAN J. DESTEFANO
APPEALS OFFICER

Sent via OOR E-file appeal portal to: A. Miller; Rachael Hughes, AORO; Lauren Brennen, Esq.

¹ On July 10, 2026, the City submitted a position statement and an attestation made under the penalty of unsworn falsification to authorities from Rachael Hughes (“Hughes Attestation”), the City’s Open Records Officer (“AORO”). Under the RTKL, a sworn affidavit or 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 the requested records exist, “the averments in [the Attestation] should be accepted as true.” *McGowan v. Pa. Dep’t of Env’tl. 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)).

² Given the determination that the OOR does not have jurisdiction over this appeal due to the premature dismissal, the OOR will not address the City’s alternate grounds – anonymous requester and proper request form not used – for dismissal of this appeal. *See City’s Position Statement*.

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