



FINAL DETERMINATION

DATE ISSUED AND MAILED: August 28, 2026

IN RE: *David Cleary v. Concord Township*, OOR Dkt. AP 2026-2529

Upon review of the appeal filed with the Office of Open Records (“OOR”) to the above-referenced docket number, as well as the parties’ submissions, the appeal is **DENIED** because:

Additional responsive records do not exist. On July 20 and July 22, 2026, Concord Township (“Township”) submitted affidavits, duly sworn, authored by Lisa Waldron, the Township’s Agency Open Records Officer (“AORO”). The AORO attests that a search was conducted within the folio file of the property specified in the Request and that inquiries were made with Township staff.¹ *See* Waldron Second Affidavit. As a result of the search and inquiries, no additional responsive records were located. *Id.* Based upon this evidence, the Township demonstrated that it conducted a good faith search for responsive records as required by 65 P.S. § 67.901 and, as a result of the search, no additional responsive records were located in the Township’s possession, custody or control. Therefore, based on the evidence provided, the Township has met its burden of proof that it does not possess additional responsive records. *Hodges v. Pa. Dep’t of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011).²

For this reason, the Township 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 Delaware 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/ Bandy L. Jarosz

BANDY L. JAROSZ, ESQ.
APPEALS OFFICER

¹ Specifically, the Township inquired with its Manager, Code Department Administrative Assistant, Code Enforcement Officer, Solicitor and Engineer, who affirmed additional responsive records do not exist. *See* Waldron Second Affidavit.

² While the Requester argues that the records provided are unresponsive and additional records should exist, the OOR makes no determination as to whether 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; *see also* 65 P.S. § 67.705.

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

Sent via portal only to: David Cleary; Lisa Waldron