

FINAL DETERMINATION

DATE ISSUED AND MAILED: September 11, 2026

IN RE: *Roderick Whitehead v. City of Corry*; OOR Dkt. AP 2026-3410

On July 6, 2026, Roderick Whitehead (“Requester”) submitted a request (“Request”) to the City of Corry (“City”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking records regarding building code enforcement for a specific property. On August 12, 2026, after extending its time to respond by thirty days, *see* 65 P.S. § 67.902(b), the City denied the Request, stating that the records sought in the Request do not exist within the City’s possession custody or control.¹ On August 18, 2026, the Requester filed an appeal with the Office of Open Records (“OOR”).

Local agencies have the burden of proving that records are exempt from access. 65 P.S. § 67.708(a)(1). Here, despite logging into the OOR’s e-file portal system and viewing the appeal documents on multiple occasions, the City did not participate on appeal by submitting legal argument or evidence demonstrating that the records do not exist or in support of withholding records.² Accordingly, the City did not meet its burden of proof under the RTKL. 65 P.S. § 67.305; *see also Hodges v. Pa. Dep’t of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011).

For this reason, the appeal is **granted**, the City is required to provide the requested records to the Requester within thirty days, or, in the alternative, a sworn affidavit or a 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 Erie 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/ Joshua T. Young

JOSHUA T. YOUNG, ESQ.
SENIOR DEPUTY CHIEF COUNSEL

Sent via OOR e-file portal to: Roderick Whitehead; Tammie Shetler, AORO

¹ Alternatively, the City argues that, to the extent the records did exist, they *could* relate to criminal and noncriminal investigations, 65 P.S. § 67.708(b)(16)-(17), or be protected from disclosure by the Criminal History Record Information Act (“CHRIA”), 18 Pa.C.S. §§ 9101 *et seq.*

² Although the City failed to present evidence confirming the existence of any investigation or otherwise identifying responsive records, insofar as they would contain the name of a complainant, such information has previously been found to be exempt from disclosure.

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