



FINAL DETERMINATION

IN THE MATTER OF

**MELANIE PATTERSON,
Requester**

v.

**FAYETTE COUNTY,
Respondent**

:
:
:
:
:
:
:
:
:
:

Docket No: AP 2026-3431

FACTUAL BACKGROUND

On August 4, 2026, Melanie Patterson (“Requester”) submitted a request (“Request”) to Fayette County (“County”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, stating, in pertinent part:

[P]lease send me electronic copies of these records:

1. Any meeting minutes, motion, resolution, ordinance, agreement, MOU, or letter that named Laurel Highlands Visitors Bureau, now called GO Laurel Highlands, as [the County’s] official tourism promotion agency or Recognized Tourist Promotion Agency.
2. Any meeting minutes, agreement, or other record that states what percentage of [County] hotel-tax money GO Laurel Highlands was to receive in 2024 and what percentage [the County] was to keep.
3. Any record showing when this designation or hotel-tax formula was approved, who voted on it, and the final vote.

Please include records that were in effect in 2024, even if they were approved before 2024.

The County did not issue a final response within five business days of the Request; therefore, on August 11, 2026, the Request was deemed denied. *See* 65 P.S. § 67.901. On August 19, 2026,¹ the Requester appealed to the Office of Open Records (“OOR”), providing reasons for disclosure. The OOR invited both parties to supplement the record and directed the County to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

On August 27, 2026, the Requester notified the OOR that the County provided 3 responsive records to her during the pendency of the appeal: a 2017 hotel-tax ordinance, a 2017 amended MOU with Laurel Highlands Visitors Bureau, and June 2017 Commissioners meeting minutes. The Requester acknowledges that although the records provided answers portions of her Request, not all responsive records have been provided. On September 2, 2026, the OOR notified the parties that no submissions had been received, and extended the filing deadline. To date, the County has not responded.

LEGAL ANALYSIS

The County 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 County 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*

¹ The Requester also notified the OOR that the County issued an untimely extension notice dated August 19, 2026.

Bd., 5 A.3d 821, 827 (Pa. Commw. Ct. 2010)). Likewise, “[t]he burden of proving a record does not exist...is placed on the agency responding to the right-to-know request.” *Hodges v. Pa. Dep’t of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011).

1. The appeal is dismissed as moot in part

On August 27, 2026, the Requester notified the OOR that the County provided 3 responsive records during the pendency of the appeal, which answered portions of the Request. Accordingly, the appeal is dismissed as moot as to these records. *See Chester Water Auth. v. Pa. Dep’t of Cmty. & Econ. Dev.*, 249 A.3d 1106, 1114 (Pa. 2021) (finding that a matter was settled by provision of records and, thus, “the controversy has been mooted”).

2. The County has not met its burden of proof

Local agencies have the burden of proving that records are exempt from access. 65 P.S. § 67.708(a)(1). Here, the County did not participate on appeal by submitting legal argument or evidence in support of withholding any additional responsive records, nor has the County demonstrated that additional responsive records do not exist in its possession, custody or control. Accordingly, the County did not meet its burden of proof under the RTKL, and therefore the appeal is granted. 65 P.S. § 67.305; *Hodges*, 29 A.3d at 1192.

CONCLUSION

For the foregoing reasons, the appeal is **granted in part** and **dismissed as moot in part**, and the County is required to provide all additional responsive records within thirty days. 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 Fayette 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.

However, 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 OOR website at: <http://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: September 11, 2026

/s/ Tope L. Quadri

TOPE L. QUADRI
APPEALS OFFICER

Sent via portal to: Melanie Patterson
 Morgan Keteles/Mark Rafail, AORO

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