

pennsylvania
OFFICE OF OPEN RECORDS
FINAL DETERMINATION

IN THE MATTER OF

**KIM PRICKETT AND IVY MILL LLC,
Requester**

v.

**IVYLAND BOROUGH,
Respondent**

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Docket No: AP 2026-2910

FACTUAL BACKGROUND

On May 20, 2026, Kim Prickett and Ivy Mill LLC (collectively “Requester”) submitted a request (“Request”) to Ivyland Borough (“Borough”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking, in pertinent part:

Any written legal interpretation, legal opinion, memorandum, correspondence, email, communication, or occupancy/use classification analysis authored by, sent by, received by, or memorializing communications with Borough Solicitor Mark Freed concerning:

1. [W]hether the International Fire Code (“IFC”) applies to 1060 Greeley Avenue;
2. [W]hether 1060 Greeley Avenue qualifies as an exempt agricultural building under Pennsylvania law, the UCC, IFC, or Borough ordinances;
3. [W]hether the International Fire Code (“IFC”) applies to 1060 Greeley Avenue;

4. [W]hether 1060 Greeley Avenue qualifies as an exempt agricultural building under Pennsylvania law, the UCC, IFC, or Borough ordinances;
5. [T]he legal basis for requiring a fire inspection at 1060 Greeley Avenue;
6. [T]he occupancy or use classification of 1060 Greeley Avenue for purposes of fire inspection authority or IFC applicability; and/or
7. [T]he “adoption clarification” referenced in Mike Italia’s October 8, 2025 email stating: “I defer to the solicitor for the adoption clarification.”

This [R]equest specifically includes records reflecting any determination, clarification, conclusion, recommendation, interpretation, or analysis made by the Borough Solicitor regarding the Borough’s authority to conduct or require fire inspections at 1060 Greeley Avenue.

This [R]equest does not seek duplicate copies of records previously produced in OOR Dkt. AP 2026-0639, but instead seeks any additional responsive records not previously produced.

On June 26, 2026, following a thirty-day extension, 65 P.S. § 67.902(b), the Borough granted the Request in part, providing responsive documents. The Borough also denied the Request in part, asserting that it redacted or withheld records that would reveal personal identification information, residential home addresses pursuant to the constitutional right to privacy, internal, predecisional deliberations, and records exempt pursuant to the attorney-client privilege. The Borough also noted that this is the third Request for similar documents, and therefore reserves the right to deny future requests as being disruptive, and seek legal avenues for an injunction to prohibit the Requester from filing disruptive RTKL requests. 65 P.S. § 67.708(b)(6); 65 P.S. § 67.708(b)(10); 65 P.S. § 67.506(a).

On July 17, 2026, the Requester appealed to the Office of Open Records (“OOR”), challenging the Borough’s response and stating grounds for disclosure.¹ The OOR invited both

¹ The Requester granted the OOR a 30-day extension to issue a final determination. *See* 65 P.S. § 67.1101(b)(1) (“Unless the requester agrees otherwise, the appeals officer shall make a final determination which shall be mailed to the requester and the agency within 30 days of receipt of the appeal filed under subsection (a).”).

parties to supplement the record and directed the Borough to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

On July 21, 2026, the Requester submitted an assortment of Exhibits in further support of the appeal. On July 31, 2026, the OOR issued correspondence, notifying the parties that no submissions had been received from the Borough, and extended the filing deadline. On August 1, 2026, the Requester objected to the OOR's extension of the filing deadline, sought any additional opportunity to make a rebuttal submission if necessary, and demanded that the OOR close the record after the extended filing deadline and issue a final determination on the existing record. To date, the Borough has not provided any submission in this matter.

LEGAL ANALYSIS

The Borough 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 Borough 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 Bd.*, 5 A.3d 821, 827 (Pa. Commw. Ct. 2010)).

Local agencies have the burden of proving that records are exempt from access. 65 P.S. § 67.708(a)(1). Here, the Borough did not participate on appeal by submitting legal argument or evidence in support of withholding records. Accordingly, the Borough did not meet its burden of proof under the RTKL. 65 P.S. § 67.305.

However, concerning residential home addresses that may have been redacted from responsive documents provided, although the Borough has not participated on appeal, the OOR may raise the issue of the constitutional right to privacy *sua sponte*. See *Reese v. Pennsylvanians for Union Reform*, 173 A.3d 1143, 1159 (Pa. 2017). When a request for records implicates personal information not expressly exempt from disclosure under the RTKL, the OOR must balance the individual's interest in informational privacy with the public's interest in disclosure and may release the personal information only when the public benefit outweighs the privacy interest. See *Pa. State Educ. Ass'n v. Commonwealth*, 148 A.3d 142 (Pa. 2016) (recognizing an individual right to privacy in certain types of personal information).

Although the Pennsylvania Supreme Court did not expressly define the types of “personal information” subject to the balancing test, the Court recognized that certain types of information, including home addresses, by their very nature, implicate privacy concerns and require a balancing of the privacy interests against the public benefit resulting from disclosure. *Pa. State Educ. Ass'n*, 148 A.3d at 156-57; see also *Sapp Roofing Co. Inc. v. Sheet Metal Workers' International Assoc.*, 713 A.2d 627 (Pa. 1998) (finding names, home addresses, social security numbers, and telephone numbers of private citizens to be personal information subject to the balancing test); *Hartman v. Pa. Dep't of Conserv. & Nat. Res.*, 892 A.2d 897, 906-07 (Pa. Commw. Ct. 2016) (finding the names and home addresses of snowmobile registrants to be protected by the constitutional right to privacy).

Further, the OOR has recognized that, in certain circumstances, home addresses are subject to a right to privacy, and disclosable only where the public interest favors disclosure. See, e.g., *Chwastyk v. Telford Borough Police Dep't*, OOR Dkt. AP 2025-0309, 2025 PA O.O.R.D. LEXIS 434; *Petusky v. Girardville Area Muni. Auth.*, OOR Dkt. AP 2024-2733, 2024 PA O.O.R.D.

LEXIS 2908; *Morris v. Wyoming Area Regional Police Dep't*, OOR Dkt. AP 2023-2753, 2024 PA O.O.R.D. LEXIS 279. Despite the Requester's arguments about commercial property addresses, the Requester has not provided any rationale as to why any *residential* home addresses must be provided within responsive records. Accordingly, the Borough may redact home addresses from the records.²

The OOR further notes that the Request facially seeks “[a]ny written legal interpretation, legal opinion, memorandum, correspondence, email, communication, or occupancy/use classification analysis authored by, sent by, received by, or memorializing communications with Borough Solicitor Mark Freed” concerning a variety of Items as provided. The RTKL defines “privilege” as “[t]he attorney-client privilege, the doctor-patient privilege, the speech and debate privilege or other privilege recognized by a court interpreting the laws of this Commonwealth.” 65 P.S. § 67.102. The attorney-client privilege protects only those disclosures necessary to obtain informed legal advice, where the disclosure might not have occurred absent the privilege, and where the client's goal is to obtain legal advice. *Joe v. Prison Health Services, Inc.*, 782 A.2d 24 (Pa. Commw. Ct. 2001). To the extent that the Request seeks communications reflecting legal advice exchanged between the Borough and its solicitor(s) on these matters, such information is privileged on its face. As such, the OOR is not ordering the production of legal advice.

Finally, although the Requester asserts that the Borough must be found to be acting in bad faith, while the Borough has not participated on appeal, nothing in the record suggests bad faith

² Moreover, although the Requester does not appear to challenge the applicability of Section 708(b)(6) on appeal, because this section facially exempts “[a] record containing all or part of a person's Social Security number, driver's license number, personal financial information, home, cellular or personal telephone numbers, personal email addresses, employee number or other confidential personal identification number,” such information may also be redacted from the records. 65 P.S. § 67.708(b)(6)(i)(A).

on the part of the Borough. Accordingly, the OOR declines to make a bad faith finding in this matter.

CONCLUSION

For the foregoing reasons, the appeal is **granted in part** and **denied in part**, and the Borough is required to provide all responsive records, sans residential home addresses, personal identification information, and legal advice, 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 Bucks 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.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 OOR website at: <http://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: September 14, 2026

/s/ Tope L. Quadri

TOPE L. QUADRI
APPEALS OFFICER

Sent via portal to: Kim Prickett
 Janet Pacchioli, AORO

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