



FINAL DETERMINATION

IN THE MATTER OF

**BRANDON CRON,
Requester**

v.

**LACKAWAXEN TOWNSHIP,
Respondent**

:
:
:
:
:
:
:
:
:
:

Docket No: AP 2026-2814

FACTUAL BACKGROUND

On July 10, 2026, Brandon Cron (“Requester”) submitted a request (“Request”) to Lackawaxen Township (“Township”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking the following records:

- [Item 1.] Township policy manual and administrative policies
- [Item 2.] Employee handbook and personnel policies
- [Item 3.] Financial policies and internal control procedures
- [Item 4.] Purchasing and procurement policies
- [Item 5.] Credit card and expenses reimbursement policies
- [Item 6.] Payroll and timekeeping policies
- [Item 7.] Vehicle and equipment uses policies
- [Item 8.] Asset and inventory management policies
- [Item 9.] Current list of *ALL* [T]ownship-owned vehicles and major equipment
- [Item 10.] Any other policies, procedures, or manuals adopted by the [Board] of Supervisors
- [Item 11.] App payroll registers
- [Item 12.] Employee wage and salary schedules
- [Items 13.] Time sheets or other timekeeping records
- [Item 14.] Overtime records
- [Item 15.] Leave records related to paid time off
- [Item 16.] Any records documenting payroll approvals
- [Item 17.] Vehicle mileage logs or odometer logs

[Item 18.] Vehicle trip logs
[Item 19.] GPS tracking records (If vehicle is equipped with GPS[])
[Item 20.] Fuel purchase records (fuel cards, receipts, statements[])
[Item 21.] Vehicle maintenance and repair records
[Items 22.] Vehicle insurance schedule
[Item 23.] Contracts or agreements between [the] [T]ownship and [the] Solicitor's law firm
[Item 24.] 2021- Current [-] Any ethics disclosures or recusal statements (Solicitor)
[Item 25.] Any written policy regarding conflicts of interest

On July 13, 2026, the Township denied the Request, asserting that it is disruptive, *see* 65 P.S. § 67.506(a)(1), and that “the RTKL does not require an agency to process requests that are made in bad faith, or that are intended to harass, burden, or disrupt the normal operations of the agency.”

That same day, the Requester appealed to the Office of Open Records (“OOR”), limiting the appeal to the denials of Items 1-10, 17-18 and 21-25 of the Request, and stating grounds for disclosure.^{1,2} Specifically, he argued that the records responsive to those Items are public under the RTKL, and that the Township cannot deny access based on intent or a perceived lack of public interest. In addition, the Requester argued that the Township failed to prove a pattern of repeated requests for those records. The OOR invited both parties to supplement the record and directed the Township to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

¹ In his appeal filing, the Requester identified the records at issue on appeal as “[t]he requested records (policies, handbooks, mileage logs, and solicitor contracts)[.]” Additionally, in his July 16, 2026 Position Statement, the Requester stated that “[t]he [R]equest sought existing and identifiable Township records, including policies, handbooks, mileage records, vehicle records, and solicitor-related records.” *Id.* at p. 1. Based on those statements, the Requester has waived all issues concerning Items 11-16 and 19-20 of the Request because he did not expressly identify those records as being at issue on appeal. Therefore, those Items will not be further addressed in this Final Determination. However, nothing in this Final Determination prevents the Requester from submitting a new RTKL request to the Township for the same records sought in Items 11-16 and 19-20 of the Request, and, if necessary, filing a new appeal with the OOR pursuant to the requirements of 65 P.S. § 67.1101(a)(1).

² The Requester granted the OOR a thirty-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)”).

On July 16, 2026, the Requester filed a position statement, a supplemental response, five exhibits and an attestation (“Requester Attestation”), which is made pursuant to 18 Pa.C.S. § 4904, reiterating his previous arguments and further asserting, in part, that the Township acted in bad faith.

The Township accessed the appeal docket via the OOR’s e-File Portal on July 15 and August 29, 2026, but it never made a submission or sought additional time to do so.

LEGAL ANALYSIS

The Township 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 Township 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)). 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) (citing 65 P.S. § 67.708).

1. The Township failed to meet its burden of proof under the RTKL

Pursuant to Section 506(a) of the RTKL, “[a]n agency may deny a requester access to a record if the requester has made repeated requests for that same record and the repeated requests have placed an unreasonable burden on the agency.” 65 P.S. § 67.506(a)(1); *see also Pa. Off. of*

the Governor v. Bari, 20 A.3d 634, 645 (Pa. Commw. Ct. 2011); *Slate v. Pa. Dep’t of Env’tl. Prot.*, OOR Dkt. AP 2009-1143, 2010 PA O.O.R.D. LEXIS 97, *6 (“A repeated request alone is not enough to satisfy § 506(a)(1)”). Repeated requests for the same records, although phrased differently, may be denied as disruptive. *See e.g., Cohen v. Pa. Dep’t of Labor and Indus.*, OOR Dkt. AP 2009-0296, 2009 PA O.O.R.D. LEXIS 159; *Dougher v. Scranton Sch. Dist.*, OOR Dkt. AP 2009-0798, 2009 PA O.O.R.D. LEXIS 318, *8 (“Slight differences in phraseology do not preclude application of [Section 506(a)]”). However, a request must be repeated more than once to constitute a “repeated request” under this section. *See Moscatiello v. Crafton Borough*, OOR Dkt. AP 2025-1246, 2025 PA O.O.R.D. LEXIS 2154, *28 (citing *Borough of W. Easton v. Mezzacappa*, No. C-48-CV-2012-7973 (North. Com. Pl. Jan. 9, 2013), *aff’d* 74 A.3d 417 (Pa. Commw. Ct. 2013)).

In the Final Response, the Township stated that, in part, that:

Based upon the totality of the circumstances, the Township has determined that this [R]equest is disruptive to the Township’s operations. This determination is based on factors that include, but are not limited to:

- ☐ The volume of the [R]equest submitted.
- ☐ The administrative burden imposed on requiring substantial staff time and resources disproportionate to any legitimate public purpose.
- ☐ The overall pattern of conduct surrounding these requests demonstrates an intent to interfere with or disrupt the efficient operation of Township government rather than to obtain access to public records.

....

Requester Appeal., p. 4.

However, as previously noted, the Township did not participate appeal, nor produce competent evidence to support its grounds for denying the Request as disruptive under 65 P.S. § 67.506(a)(1). Further, the Township has not raised any other grounds for withholding responsive records, nor demonstrated that no such records exist. Accordingly, the Township has failed to meet its burden of proof under the RTKL. *See* 65 P.S. §§ 67.305, 708(a). Therefore, the OOR

must grant the appeal, and the Township is directed to conduct a good faith search for all records responsive to Items 1-10, 17-18, 21-25 of the Request and to provide them to the Requester.³ To the extent that said records do not exist, the Township is required to provide an affidavit or attestation describing the search for such records and affirming their non-existence. *See* 65 P.S. § 67.705 (“When responding to a request for access, an agency shall not be required to create a record which does not currently exist ...”).

2. The OOR declines to make a finding of bad faith

The Requester argues that the Township potentially engaged in bad-faith conduct by denying the Request “in full without identifying specific exempt records, without explaining why redaction or partial access was not possible, and without providing factual evidence supporting its claims of burden, harassment, disruption, or improper motive.” He further asserts, in part, that “[t]he Township also relied substantially on allegations concerning the Requester’s motive and an unspecified pattern of conduct rather than determining whether the requested records were public and whether any exemption applied.”

While the OOR may make a finding of bad faith, only a court may impose related penalties. *See* 65 P.S. §§ 67.1304(a), 67.1305. Under the RTKL, a finding of bad faith may be appropriate where an agency refuses to comply with its statutory duties. *See Uniontown Newspapers, Inc. v. Pa. Dep’t of Corr* 185 A.3d 1161, 1171-74 (Pa. Commw. Ct. 2018), *aff’d*, 243 A.3d 19 (Pa. 2020) (bad faith involves failing to perform a good faith search and review of records to ascertain if the requested material exists or if any exclusion applies prior to denial of access); *see also Off. of the Dist. Att’y. of Phila. v. Bagwell*, 155 A.3d 1119, 1140-41 (Pa. Commw. Ct. 2017) (a finding of bad

³ An agency cannot waive a third party’s right in nondisclosure by action or inaction. *See Baron v. Dep’t of Human Servs.*, 169 A.3d 1268, 1275 (Pa. Commw. Ct. 2017). Thus, to the extent that personal identification information that is either expressly exempt under 65 P.S. § 67.708(b)(6)(i)(A) or protected by the constitutional right to privacy is contained within any of the responsive records, it may be redacted by the Township.

faith was warranted where the agency based a denial on the identity of the requester, refused to provide a legal rationale for denial and did not perform a good faith search). However, such a finding is typically reserved only for an egregious or blatant violation of the RTKL.

Here, the Township issued a timely Final Response to the Request. While it did not participate on appeal and meet its burden of proof under the RTKL, in the absence of additional facts, the OOR declines to make a finding of bad faith in this matter. However, the Requester is not prohibited from seeking such a finding from a reviewing court, which can conduct additional fact-finding on the issue.

CONCLUSION

For the foregoing reasons, the appeal is **granted**, and the Township is required to conduct a good faith search for any records responsive to Items 1-10, 17-18, 21-25 of the Request and to provide them to the Requester within thirty days, or, in the alternative, a sworn affidavit or a statement made under the penalty of perjury demonstrating that no such records exist. 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 Pike 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.⁴ 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>.

⁴ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).

FINAL DETERMINATION ISSUED AND MAILED: September 15, 2026

/s/ Megan Burns

MEGAN BURNS
APPEALS OFFICER

Sent via OOR Portal to: Brandon Cron; and Michael Mancino, AORO