



FINAL DETERMINATION

DATE ISSUED AND MAILED: September 15, 2026

IN RE: *Richard Winter v. Bethel Park Municipality.*, OOR Dkt. AP 2026-3603

On July 23, 2026, Richard Winter (“Requester”) submitted a request (“Request”) to the Bethel Park Municipality (“Municipality”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.* Following a thirty-day extension of time to respond, the Municipality denied the Request on August 31, 2026, claiming that responsive records do not exist within the Municipality’s possession, custody or control. 67.902(b)(2). On August 31, 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). 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). Here, the Municipality did not comply with the RTKL by participating on appeal by submitting legal argument or evidence in support of withholding records. Accordingly, the Municipality did not meet its burden of proof under the RTKL. 65 P.S. § 67.305.

For this reason, the appeal is **granted**, the Municipality 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 Allegheny 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.¹ 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/ *Kelly C. Isenberg*

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Sent via OOR E-file portal to: Richard Winter; Jahd Burns, AORO

¹ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).