



FINAL DETERMINATION

IN THE MATTER OF	:
	:
JOHN DEMASI,	:
Requester	:
	:
v.	: Docket No: AP 2026-3582
	:
UPPER DARBY TOWNSHIP,	:
Respondent	:

FACTUAL BACKGROUND

On July 22, 2026, John DeMasi (“Requester”) submitted a request (“Request”) to Upper Darby Township (“Township”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking all emails sent and received from Marion Minnick, Crandall Jones, Rafe Kuhn and Rita LaRue for the timeframe of 5/29/26 to 6/15/26.

On August 28, 2026, following a thirty-day extension during which to respond, 65 P.S. § 67.902(b), the Township denied the Request as insufficiently specific, arguing that the Request “does not identify any subject matter[,], is also relatively broad in scope[, and t]he time frame of [the R]equest is not sufficiently narrow to remedy these issues.”¹

On August 31, 2026, the Requester appealed to the Office of Open Records (“OOR”), challenging the denial and stating grounds for disclosure. The OOR invited both parties to

¹ The Township also states that it “conducted a preliminary record search, which produced approximately 2,100 potentially responsive records” and that it “does not have the capability in terms of staffing and resources to review this volume of records within the timeframe required under the RTKL.”

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).

The submission period closed on September 10, 2026 and, to date, neither party participated on appeal.

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)).

The Township, as noted in its final response, asserts that the Request is insufficiently specific. Section 703 of the RTKL states that “[a] written request should identify or describe the records sought with sufficient specificity to enable the agency to ascertain which records are being requested.” 65 P.S. § 67.703. When determining whether a particular request is sufficiently specific, the OOR undertakes a nonexclusive, multi-factor test, considering “the extent to which the request specifies subject matter, the extent to which it defines the scope of the records it seeks, and the extent to which it limits the timeframe of the request.” *Pa. Off. of the Governor v. Brelje*, 312 A.3d 928, 937 (Pa. Commw. Ct. 2024) (citing *Pa. Dep’t of Educ. v. Pittsburgh Post-Gazette*, 119 A.3d 1121 (Pa. Commw. Ct. 2015)). The test is not “a conjunctive, bright-line rule requiring

each ‘element’ of the test to be satisfied; rather, it [is] a flexible approach” consistent with relevant caselaw. *Id.*

First, “[t]he subject matter of the request must identify the ‘transaction or activity’ of the agency for which the record is sought.” *Id.* at 1125 (quoting 65 P.S. § 67.102). Second, “[t]he scope of the request must identify ‘a discrete group of documents, either by type ... or by recipient.’” *Id.* (quoting *Carey v. Pa. Dep’t of Corr.*, 61 A.3d 367, 372 (Pa. Commw. Ct. 2013)). Finally, “[t]he timeframe of the request should identify a finite period of time for which records are sought.” *Id.* at 1126 (citing *Carey, supra*). “The timeframe prong is, however, the most fluid of the three prongs, and whether or not the request’s timeframe is narrow enough is generally dependent upon the specificity of the request’s subject matter and scope.” *Id.*

The above factors are intended “to facilitate an analysis in order to determine whether an agency can ascertain which records are being requested The subject matter, scope, and timeframe of a request are flexible, analytical elements, not evidentiary requirements.” *Pa. Dep’t of Health v. Shepherd*, No. 377 C.D. 2021, 2022 Pa. Commw. Unpub. LEXIS 207 *6-7 (Pa. Commw. Ct. 2022), *appeal denied*, No. 334 MAL 2022, 2022 Pa. LEXIS 1862 (Pa. 2022). Further, the Commonwealth Court has warned that an evaluation of sufficient specificity turns on each case’s unique facts and that a lack of subject matter does not necessarily lead to a conclusion that a request is insufficiently specific. *See Brelje*, 312 A.3d at 933; *see also Methacton Sch. Dist. v. Office of Open Records*, 271 A.3d 548 (Pa. Commw. Ct. 2021). An agency’s actual ability to search for, find, and produce responsive documents, although not controlling, does weigh in favor of a finding that a request is sufficiently specific. *See id.*; *see also Borough of Pottstown v. Suber Aponte*, 202 A.3d 173, 179 (Pa. Commw. Ct. 2019); *Easton Area Sch. Dist. v. Baxter*, 35 A.3d 1259, 1265 (Pa. Commw. Ct. 2012).

Based upon the above multifactor test, we disagree with the Township's argument and find that the Request is sufficiently specific. In *Brelje v. Office of the Governor*, the Commonwealth Court considered how a set of similar factors should be weighed. 312 A.3d 928 (Pa. Commw. Ct. 2024). There, the requests sought "all incoming and outgoing emails" for two of the Office of the Governor's staff, one for ten days and the other for twenty days. *Id.* at 930. The OOR held that the requests were sufficiently specific despite the lack of a subject matter because of the narrow scope and short timeframes, and on appeal, the Court agreed. *Id.* at 939.

In this instance, the Request lacks a subject matter. The lack of a subject matter, however, is not necessarily fatal to a request. *Brelje*, 312 A.3d at 939; *see also Methacton Sch. Dist. v. Office of Open Records*, 271 A.3d 548 *4 (Pa. Commw. Ct. 2021) (unreported opinion) ("There is no bright-line rule absolutely requiring a requester to precisely identify the subject matter of the requested record.... A requester's failure to identify a subject matter may be accorded more or less weight depending upon other factors"). The Request has a narrow scope, seeking all emails and attachments, and it identifies the senders and recipients of the emails. This factor, coupled with a short timeframe of 18 days and the Township being able to conduct a search and identify responsive emails, supports a finding that the Request, as written, is sufficiently specific. *Pope v. City of Phila. Police Dep't*, OOR Dkt. AP 2024-1375, 2024 PA O.O.R.D. LEXIS 1803. While it is possible for a request to lack specificity even with a narrow scope and subject matter, there is no evidence before us demonstrating that the lack of a subject matter here is so burdensome as to make the Request insufficiently specific. As the Township has not raised any other basis for withholding the responsive records and the Township has not otherwise participated on appeal, we must grant the appeal. *See Distenfeld v. Cumberland Valley Sch. Dist.*, OOR Dkt. AP 2026-2543, 2026 PA O.O.R.D. LEXIS 2660 (finding a request seeking all emails to and from the District

School Director between January 1, 2026 and May 19, 2026 to be sufficiently specific); *see also Drapp v. Upper Darby Twp.*, OOR Dkt. AP 2024-0959, 2024 PA O.O.R.D. LEXIS 1074 (finding a request seeking emails and attachments for a two-month period to be sufficiently specific).

CONCLUSION

For the foregoing reasons, the appeal is **granted**, and the Township is required to provide the records responsive to the Request to the Requester 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 Delaware 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 22, 2026

/s/ Lyle Hartranft

LYLE HARTRANFT, ESQ.
APPEALS OFFICER

Sent via e-file portal to: John DeMasi; Crandall Jones, AORO

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