



FINAL DETERMINATION

DATE ISSUED AND MAILED: September 22, 2026

IN RE: *Joseph Thaman v. Fox Chapel Borough*, OOR Dkt. AP 2026-3741 (Consolidated appeal of OOR Dkts. AP 2026-3741 and AP 2026-3742)

Upon review of the appeal filed with the Office of Open Records (“OOR”)¹ to the above-referenced docket number, as well as the parties’ submissions, the appeal is **DENIED** because:

Responsive records do not exist. On September 11 and September 14, 2026, Fox Chapel Borough (“Borough”) submitted attestations made subject to the penalties under 18 Pa. C.S. § 4904, authored by Shawn Peterson, the Borough’s Agency Open Records Officer (“AORO”). The AORO attests that a search was conducted within Borough Contract Nos. 25-R01 and 26-R01, the Borough’s filing system and personnel emails. Peterson Second Attestation ¶ 3. Additionally, the Borough inquired with its Engineer, who contacted Shields Asphalt Paving for responsive records. Peterson Second Attestation ¶¶ 1, 2. As a result of the Borough’s search, no responsive records were located. Peterson Attestation ¶¶ 6, 7.² Based upon this evidence, the Borough demonstrated that it conducted a good faith search for responsive records as required by 65 P.S. § 67.901 and, as a result of the search, no responsive records were located. Therefore, based on the evidence provided, the Borough has met its burden of proof that it does not possess responsive records. *Hodges v. Pa. Dep’t of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011).

For this reason, the Borough is not required to take any further action. 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.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 website at: <http://openrecords.pa.gov>.

Issued by:

/s/ Bandy L. Jarosz

BANDY L. JAROSZ, ESQ., APPEALS OFFICER

¹ The Requester filed two appeals on September 8, 2026. The two appeals were consolidated into OOR Dkt. AP 2026-3741 on September 11, 2026. See 65 P.S. § 1102(b)(3) (stating that “the appeals officer shall rule on procedural matters on the basis of justice, fairness, and the expeditious resolution of the dispute”).

² The position statement submitted by the Requester on September 15, 2026 provided no evidence that contradicted the evidence set forth in the Peterson Attestations.

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

Sent via portal only to: Joseph Thaman; Shawn Peterson