

pennsylvania
OFFICE OF OPEN RECORDS
FINAL DETERMINATION

IN THE MATTER OF	:	
	:	
VICTOR PEREZ,	:	
Requester	:	
	:	
v.	:	Docket No.: AP 2026-3018
	:	
READING PARKING AUTHORITY,	:	
Respondent	:	

FACTUAL BACKGROUND

On May 27, 2026, Victor Perez (“Requester”) submitted a request (“Request”) to the Reading Parking Authority (“Authority”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking “records concerning the retention, destruction, loss, disposition, or storage of ... Authority board meeting records, including minutes and agendas, for the years 2014, 2015, 2017, and 2018.” The Request further stated that:

Responsive records include:

1. Records retention schedules applicable to board meeting minutes, agendas, draft minutes, and meeting materials
2. Records disposal logs
3. Destruction authorizations
4. Certificates of records destruction
5. Records management policies

6. Correspondence concerning missing, unavailable, destroyed, or lost board meeting records
7. Inventories or indexes of archived board records
8. Contracts or communications with third-party storage vendors relating to archived board records
9. Any records reflecting digitization, migration, or scanning of historical board records

On July 1, 2026, after extending its time to respond by thirty days, *see* 65 P.S. § 67.902(b)(2), the Authority granted the Request, stating that it provided all responsive records to the Request.

On July 23, 2026, the Requester filed an appeal with the Office of Open Records (“OOR”), stating grounds for disclosure.¹ The Requester specifically asserts that not all responsive records were provided. The OOR invited both parties to supplement the record and directed the Authority to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

On August 6, 2026, the Requester made multiple submissions. On the same day, the Authority provided the attestation of Rafael Batista (“Batista Attestation”), the Authority’s Executive Director, who attests that all responsive records have been provided.

On September 3, 2026, in response to a request for additional evidence from the OOR, the Authority submitted the supplemental attestation of Rafael Batista (“Supplemental Batista Attestation”). On the same day, the Requester submitted a reply thereto.

LEGAL ANALYSIS

The Authority 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

¹ During the course of the appeal, the Requester provided the OOR with additional time to issue this Final Determination. 65 P.S. § 67.1101(b)(1).

subject to the RTKL, the Authority 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 Authority argues that additional responsive records do not exist. In response to a request for records, “an agency shall make a good faith effort to determine if ... the agency has possession, custody or control of the record[.]” 65 P.S. § 67.901. While the RTKL does not define the term “good faith effort,” in *Uniontown Newspapers, Inc. v. Pa. Dep’t of Corr.*, the Commonwealth Court stated:

As part of a good faith search, the open records officer has a duty to advise all custodians of potentially responsive records about the request, and to obtain all potentially responsive records from those in possession... When records are not in an agency’s physical possession, an open records officer has a duty to contact agents within its control, including third-party contractors ... After obtaining potentially responsive records, an agency has the duty to review the records and assess their public nature under ... the RTKL.

185 A.3d 1161, 1171-72 (Pa. Commw. Ct. 2018) (citations omitted), *aff’d*, 243 A.3d 19 (Pa. 2020).

An agency must show, through detailed evidence submitted in good faith from individuals with knowledge of the agency’s records, that it has conducted a search reasonably calculated to uncover all relevant documents. *See Burr v. Pa. Dep’t of Health*, OOR Dkt. AP 2021-0747, 2021 PA O.O.R.D. LEXIS 750; *see also Mollick v. Twp. of Worcester*, 32 A.3d 859, 875 (Pa. Commw. Ct. 2011).

In this instance, the Batista Attestation² states, in relevant part, as follows:

² Under the RTKL, an attestation is generally competent evidence to sustain an agency’s burden of proof. *See Sherry v. Radnor Twp. Sch. Dist.*, 20 A.3d 515, 520-21 (Pa. Commw. Ct. 2011); *Moore v. Office of Open Records*, 992 A.2d

3. I was able to locate the Municipal Records Manual (“Manual”) in response to the Request. This Manual was previously adopted by the ... Authority to control the schedules and procedures for the disposition of records.
4. On June 17, 2026, I sent an email ... confirming that I conducted a search for documents responsive to the Request and did not locate any documents other than the Manual. I sent the Manual ... in my June 17 email.

Additionally, the Supplemental Batista Attestation provides that “available digital and paper files regarding the retention or destruction of board meeting records for the years 2014, 2015, 2017 and 2018” were searched and “did not reveal any responsive documents.” Supplemental Batista Attestation, ¶ 7.

Here, the Authority’s attestations are authored by an individual who has knowledge of whether any responsive records exist. The Batista Attestation describes who conduct searches and the results of those searches.

The Requester argues that not all responsive records were provided. However, the OOR makes no determinations as to whether additional records *should* exist, as our inquiry is limited to only whether or not records are “in existence and in possession of the ... agency at the time of the right-to-know request.” *Moore*, 992 A.2d at 909; *see also* 65 P.S. § 67.705.

Therefore, based on the evidence provided, the Authority has met its burden of proof that all records responsive to the Request were provided to the Requester. *See Hodges v. Pa. Dep’t of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011); *see also Pa. Dep’t of Health v. Mahon*, 283 A.3d 929 (Pa. Commw. Ct. 2022) (holding that, when there is evidence that a record does not exist, “[i]t is questionable to what degree additional detail and explanation are necessary....”); *Campbell v. Pa. Interscholastic Athletic Ass’n*, 268 A.3d 502 (Pa. Commw. Ct. 2021) (noting that an agency

907, 909 (Pa. Commw. Ct. 2010). In the absence of any competent evidence that the Authority acted in bad faith, “the averments in [the attestations] should be accepted as true.”

need only prove the nonexistence of records by a preponderance of the evidence, the lowest evidentiary standard, and is tantamount to a “more likely than not” inquiry).

CONCLUSION

For the foregoing reasons, the appeal is **denied**, and the Authority is not required to take any further action. 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 Berks 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; 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 65 P.S. § 67.1303. 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 25, 2026

/s/ Magdalene C. Zeppos-Brown
MAGDALENE C. ZEPPOS-BROWN, ESQ.
DEPUTY CHIEF COUNSEL

Sent to: Victor Perez (via OOR e-file portal only); and
Mahlon J. Boyer, Esq., AORO (via OOR e-file portal only)

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