



FINAL DETERMINATION

DATE ISSUED AND MAILED: October 2, 2026

IN RE: *Darwin Leuba v. West Hazleton Borough Police Dep't*; OOR Dkt. AP 2026-3790

On July 29, 2026, Darwin Leuba (“Requester”) submitted ten separate requests (“Requests”) to the West Hazleton Borough Police Department (“Borough”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.* The Borough did not respond after invoking an extension of time to respond and the Requests were deemed denied on September 4, 2026. 65 P.S. § 67.902(b)(2). On September 9, 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). Here, the Borough did not comply with the RTKL by timely responding to the Requests,¹ nor did the Borough participate on appeal by submitting legal argument or evidence in support of withholding records.² Accordingly, the Borough did not meet its burden of proof under the RTKL. 65 P.S. § 67.305.

For this reason, the appeal is **granted**, the Borough 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 Luzerne 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/ Catherine R. Hecker

CATHERINE R. HECKER
APPEALS OFFICER

Sent via OOR e-file portal to: Darwin Leuba; James Schweitzer, AORO

¹ The Borough acknowledged receipt of the Requests on July 29, 2026 and invoked a thirty-day extension to respond to the Requests on August 5, 2026.

² To date, the Borough has made no submission, despite the provision of an evidentiary submission deadline extension being and contacted by OOR administrative staff on September 30, 2026.

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