



FINAL DETERMINATION

IN THE MATTER OF

**FRANK STACK, III,
Requester**

v.

**SPRING TOWNSHIP,
Respondent**

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Docket No: AP 2026-3392

On June 30, 2026, Frank Stack, III, (“Requester”) submitted a request (“Request”) to Spring Township (“Township”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking various records regarding an event that occurred on July 10, 2026 at an identified address. On July 27, 2026, after invoking a thirty-day extension of time to respond, *see* 65 P.S. § 67.902(b), the Township granted the Request and provided the Requester with responsive records.¹ On August 17, 2026, the Requester filed an appeal with the Office of Open Records (“OOR”), challenging the sufficiency and completeness of the Township’s search for records.² The OOR invited both parties to supplement the record and informed the Township that notice to third parties may be necessary, 65 P.S. § 67.1101(c).

¹ Although the Township’s final response is dated July 24, 2026, the parties confirm that the final response and accompanying records were transmitted to the Requester on July 27, 2026.

² The appeal documents did not include a copy of the Township’s final response to the Request. By Order dated August 19, 2026, the OOR directed the Requester to submit a copy of the final response, and, on August 28, 2026, the Requester complied with the Order, perfecting the appeal.

On September 16, 2026, the Township submitted a sworn affidavit from John Groller (“Groller Affidavit”), the Township’s Manager and Open Records Officer. The Groller Affidavit briefly describes the Township’s search for responsive records, affirms that the responsive records “not subject to exemption” were produced, and confirms that no additional responsive records exist within the Township’s possession, custody or control. The Township identified one email between Mr. Groller and the Township’s solicitor as protected by the attorney-client privilege. Other than the documents submitted in response to the OOR’s Deficiency Order, the Requester did not submit any additional legal argument or evidence.

Because the Township’s evidence does not make clear which records, if any, were withheld because they were “subject to exemption,” on September 21, 2026, the OOR sought additional information from the Township in the form of an exemption log, describing the records, or parts of records, withheld from disclosure, including the email withheld pursuant to privilege.³ Despite viewing the OOR’s correspondence on the day it was transmitted, the Township did not respond to the OOR’s inquiry.

As the Appeals Officer assigned to this matter, I have reviewed the appeal filed with the OOR, as well as the parties’ submissions in support of their positions. Based upon my review of the appeal and the necessary evidence, I make the following conclusions of law and findings of fact:

- 1. The Township has proven that it conducted a good faith search for records and that no additional responsive records exist within its possession, custody or control.**

The Groller Affidavit demonstrates that the Township’s Open Records Officer, along with the Township’s Assistant Open Records Officer, Dean Murray, conducted a good faith search for responsive records by searching the physical property files for the identified property address,

³ The Township was granted until September 30, 2026, to respond to the OOR’s request for supplemental evidence.

documents stored electronically on the Township's computer systems using the keywords "Mini Bike" and "566 Mohn's Hill Road LLC," the owner of the property, emails on Township electronic devices using the same terms, and relevant permit files. Groller Affidavit, ¶¶ 4-8. The records located during the search were then transmitted to the Township's solicitor, which reviewed the records for privileged information and to determine whether any RTKL exemptions apply to the records, and then the Township "produced all documents which were responsive to the [R]equest ... in our possession, and not subject to exemption or privilege." Groller Affidavit, ¶¶ 9-10. Based upon this evidence, and because the Requester has not submitted sufficient, credible evidence to rebut the Groller Affidavit with respect to the search, the Township has proven that it conducted a good faith search for records and identified all responsive records within its possession, custody or control. *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, 936 (Pa. Commw. Ct. 2022) (finding that, in the absence of countervailing evidence establishing that the agency acted in bad faith or that the requested records exist, averments of nonexistence should be accepted as true).

2. The Township has not proven that records are subject to the attorney-client privilege or any other RTKL exemption.

The Township withheld one email exchanged by the Township Manager, Mr. Groller, and the Township's Solicitor pursuant to the attorney-client privilege. In order for the attorney-client privilege to apply, an agency must demonstrate that: 1) the asserted holder of the privilege is or sought to become a client; 2) the person to whom the communication was made is a member of the bar of a court, or his subordinate; 3) the communication relates to a fact of which the attorney was informed by his client, without the presence of strangers, for the purpose of securing either an opinion of law, legal services or assistance in a legal matter, and not for the purpose of committing a crime or tort; and 4) the privilege has been claimed and is not waived. *BouSamra v.*

Excelsa Health, 210 A.3d 967, 982-83 (Pa. 2019). However, with respect to privilege, the Groller Affidavit affirms only that “[s]ufficient identifying detail was provided with respect to the one-email which was withheld based on attorney-client privilege.” Groller Affidavit, ¶ 11(o). This “detail” was not provided to the OOR during the appeal, nor did the Township respond to the OOR’s request for additional information regarding the records withheld from disclosure. *See Office of the Governor v. Scolforo*, 65 A.3d 1095, 1103 (Pa. Commw. Ct. 2013) (“a generic determination or conclusory statements are not sufficient to” meet the agency’s burden of proof). Therefore, we conclude that the Township has failed to prove that records are protected by the attorney-client privilege. *See* 65 P.S. § 67.305.

Likewise, the Township has failed to identify any RTKL exemptions by which records were withheld from disclosure, or to submit evidence supporting the application of those RTKL exemptions to the records. Accordingly, the Township has failed to prove that records may be withheld pursuant to any RTKL exemption. *See* 65 P.S. § 67.708(a)(1).

For the foregoing reasons, the appeal is **granted in part** and **denied in part**, and the Township is required to provide all responsive records 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 or petition for review 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 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. 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>.

FINAL DETERMINATION ISSUED AND MAILED: 5 October 2026

/s/ Joshua T. Young

JOSHUA T. YOUNG, ESQ.
SENIOR DEPUTY CHIEF COUNSEL

Sent via OOR e-file portal to: Frank Stack, III;
Joan London, Esq. and John Groller, AORO