



FINAL DETERMINATION

DATE ISSUED AND MAILED: October 7, 2026

IN RE: *Genevieve Frendo-Russo and 257 Lincoln, LLC v. Borough of Ephrata*, OOR Dkt. AP 2026-3730

Upon review of the appeal filed¹ with the Office of Open Records (“OOR”) to the above-referenced docket number, as well as the parties’ submissions, the appeal is **DENIED** because:

Additional records do not exist. On September 29, 2026,² the Borough of Ephrata (“Borough”) submitted a statement made under the penalty of perjury³ authored by Yvonne Allard (“Allard Attestation”), the Borough’s Agency Open Records Officer (“AORO”), who attests that a search was conducted within the Borough’s filing cabinets, archived records, and electronic records, as well as inquiries made with the Borough’s Electric Department personnel. Allard Attestation ¶¶ 3-8. As a result, no additional responsive records exist in the Borough’s possession, custody or control. *Id.* Based upon this evidence, and without any evidence to the contrary, 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 additional responsive records were located. Therefore, based on the evidence provided, the Borough has met its burden of proof that it does not possess the requested 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 Lancaster 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.⁴ 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/ Julie Sodl

JULIE SODL, APPEALS OFFICER

¹ It is noted that the Requester only appeals the denial of Items 2 and 4 of the Request. *See* Appeal.

² On September 22, 2026, the OOR granted the Borough’s request to extend the deadline until September 28, 2026. *See* 65 P.S. § 67.1102(b)(3). While the Borough’s submission was late, it is still accepted into the record for its probative value. *See* 65 P.S. § 67.1102(a)(2) (stating that “[t]he appeals officer may admit into evidence testimony, evidence and documents that the appeals officer believes to be reasonably probative and relevant to an issue in dispute”).

³ 18 Pa. C.S. § 4904.

⁴ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).

Sent via E-File Portal to: Genevieve Frendo-Russo; Issac P. Wakefield, Esq.; Yvonne Allard, AORO