pennsylvania
OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF	:	
	:	
FRANK BUONO,	:	
Requester	:	
	:	
v.	:	**Docket No.: AP 2026-3148**
	:	
LACKAWANNA COUNTY,	:	
Respondent	:	

On July 20, 2026, Frank Buono ("Requester") submitted a request ("Request") to Lackawanna County ("County") pursuant to the Right-to-Know Law ("RTKL"), 65 P.S. §§ 67.101 *et seq*., seeking:

> …[A] copy of…[t]he current, active list of all tax-delinquent properties located strictly within Covington Township.
>
> - Please include the following data fields for each property, if available: Parcel ID (Map Number), Property Owner Name(s), Owner Mailing Address, Property Location Address, and the Total Delinquent Amount Owed."

On July 24, 2026, the County purported to grant the Request, stating that the Requester must fill out the Tax Assessment/Tax Claim Records Request Form, which was provided by the County. The form provides that a one-time request has a fee of six hundred dollars.

On August 3, 2026, the Requester appealed to the Office of Open Records ("OOR"), challenging the fee and stating grounds for disclosure.[1] The OOR invited both parties to supplement the record and directed the County to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

On August 25, 2026, the County submitted the attestation of its Open Records Officer, Traci Harte ("Harte Attestation"), which describes the County's search, explains the County's use of its Tax Assessment/Tax Claim Records Request Form, and confirms that the requested records must be obtained from a third-party vendor.

On that same day, the Requester submitted a statement in support of the appeal.

LEGAL ANALYSIS

The County 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 subject to the RTKL, the County 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)).

On appeal, the sole issue is whether the fee is proper. The County argues that the fee is proper because the County must obtain the requested records from a third-party and there is a cost

[1] The Requester granted the OOR a thirty-day extension to issue a final determination. *See* 65 P.S. § 67.1101(b)(1) ("Unless the requester agrees otherwise, the appeals officer shall make a final determination which shall be mailed to the requester and the agency within 30 days of receipt of the appeal filed under subsection (a).")

to produce the requested file.[2] The Requester argues that the County has not provided proof that "exporting a localized tax-delinquent list for Covington Township actually costs $600" and that "[e]xtracting existing data fields from an active database via electronic query does not constitute enhanced GIS mapping or the creation of a specialized record."[3]

The permissibility of fees is within the OOR's jurisdiction, and a challenge to the fees assessed is properly raised in an appeal. *See* 65 P.S. § 67.1307(b)(1)(i); *Prison Legal News v. Office of Open Records*, 992 A.2d 942 (Pa. Commw. Ct. 2010). Fees under the RTKL are governed by Section 1307, which provides guidelines for postage fees, duplication fees, certification fees, printing fees, enhanced electronic access fees, and a catchall provision. 65 P.S. §§ 67.1307(a)-(g). Under that Section, the OOR has the authority to establish fees for duplication for Commonwealth and local agencies.[4] 65 P.S. § 67.1307(b)(1)(i). Section 1307(g) of the RTKL provides as follows:

> Except as otherwise provided by statute, no other fees may be imposed unless the agency necessarily incurs costs for complying with the request, and such fees must be reasonable. No fee may be imposed for an agency's review of a record to determine whether the record is a public record, legislative record or financial record subject to access in accordance with this act.

65 P.S. § 67.1307(g); *see also SERS v. Office of Open Records*, 10 A.3d 358, 363 (Pa. Commw. Ct. 2010).

To show that a cost may be imposed on a requester, an agency must show that the cost at issue is both necessary to fulfill the request and reasonable in scope. *See Iverson v. Southeastern*

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[2] When a fee estimate is expected to exceed $100, an agency may demand prepayment of those fees prior to granting a request for access. 65 P.S. §67.1307(h); *see also Pa. Dep't of Educ. v. Bagwell*, 131 A.3d 638 (Pa. Commw. Ct. 2016) (clarifying that the prepayment demand does not need to be included within the initial notice under Section 902).

[3] The Requester also argues that "[a]n arbitrary, static flat fee established two decades ago does not represent the 'actual technical cost of production' for an electronic query in 2026." However, this argument misstates the County's response, because the County did not represent that the amount of the fee has been in existence for twenty years; rather, the County states that the "Tax Assessment/Tax Claim Records Request Form was implemented at the County over 20 years ago" because of its need to use a third-party vendor. *See* Harte Attestation, ¶ 5.

[4] *See* https://www.openrecords.pa.gov/RTKL/FeeStructure.cfm *OOR Fee Schedule* (last accessed September 11, 2026).

Pa. Transp. Auth., OOR Dkt. AP 2011-0742, 2011 PA O.O.R.D. LEXIS 477; *Lauff v. Fort Cherry Sch. Dist.*, OOR Dkt. AP 2011-0701, 2011 PA O.O.R.D. LEXIS 470. To demonstrate that the cost is reasonable, the agency must show that the fee is "reasonable in the field" or that it was an ordinary price for such services. *Iverson*, 2011 PA O.O.R.D. LEXIS 477. Where an agency lacks the ability to extract and duplicate information without using a third-party vendor, it may recoup the costs for that charge. *See Allen v. Fairview Twp.*, OOR Dkt. AP 2010-0758, 2010 PA O.O.R.D. LEXIS 747.

In support of the County's position, the Harte Attestation states that the County undertook "a thorough examination of files in…[its] possession, custody and control…for records responsive to the Request"—"specifically, having…[its] Tax Claim Bureau and Information Technology Department review the [R]equest and advise on if the information was available." *See* Harte Attestation, ¶ 3. Additionally, the Harte Attestation affirms "that the County can provide the requested records and…that the County's Information Technology Department requires [submission of its Tax Assessment/Tax Claim Records Request Form to conduct] search of this type" because the County must "go through a third-party to obtain this information and there is a cost to produce the requested file." *Id.*, ¶¶ 4-5. The Harte Attestation further confirms that "GIS data or bulk property tax assessment data requests fall under 'specialized documents' and are billed at the actual technical cost of production." *Id*., ¶ 5.

Under the RTKL, a sworn affidavit or statement made under the penalty of perjury may serve as sufficient evidentiary support. *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 907, 909 (Pa. Commw. Ct. 2010). In the absence of any evidence that the County acted in bad faith, "the averments in [the statement] should be accepted as true." *McGowan v. Pa. Dep't of Envtl. Prot.*, 103 A.3d 374,

382-83 (Pa. Commw. Ct. 2014) (citing *Office of the Governor v. Scolforo*, 65 A.3d 1095, 1103 (Pa. Commw. Ct. 2013)). Here, the County's evidence shows that the fee is both necessary to fulfill the request and is "the actual technical cost of production[,]" which the County uniformly charges to provide tax-delinquent property lists. *See* 65 P.S. § 67.1307(g).[5] Accordingly, based on the evidence presented, the County demonstrated that the fee is proper and, as such, the County is not required to provide the responsive records prior to prepayment.

CONCLUSION

For the foregoing reasons, the appeal is **denied**, and the County is not required to take any further action at this time. 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 Lackawanna 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.[6] 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: October 8, 2026

/s/ *Erika Similo*

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ERIKA SIMILO
APPEALS OFFICER

Sent via portal to: Frank Buono
Traci K. Harte

[5] Moreover, there is no evidence in the record to show that fee imposed by the County is not the reasonable market value of obtaining the requested records from the County's third-party vendor. *See* 65 P.S. § 67.1307(b)(4).
[6] *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).