



FINAL DETERMINATION

IN THE MATTER OF

**JACK WILLIAMS,
Requester**

v.

**JOHNSTOWN CITY,
Respondent**

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Docket No: AP 2026-4026

FACTUAL BACKGROUND

On August 10, 2026, Jack Williams (“Requester”) submitted a request (“Request”) to Johnstown City (“City”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*,¹ seeking “the most current financial details [through]...July 31, 2026, in the format utilized by in the May 31, 2026” Schedule of Cash Balances financial report (“Item 1”); the May 31, 2026 Schedule of Cash Balances financial report, specifically, “the amounts encumbered [pertaining to eleven identified funds], including dates obligations incurred, contract/agreements executed for services, supplies and other legally approved expenditures, as appropriated in the annual City...Operating Budgets for 2026, and for obligations entered into for prior years” (“Item 2 ”); and “records of any and all City...Funds where by obligations have been incurred for the periods beginning on January 1, 2026 [through] June 3[0], 2026, including, but not limited to vendor,

¹ Although the Request was emailed on Sunday, August 9, 2026, it was deemed received by the City on the next business day, or Monday, August 10, 2026.

supplier, materials, whether incurred by contract/agreements, purchase orders and/or other means, including [MOU] (memorandums of understanding) and competitive bidding, where required in accordance with applicable law” (“Item 3”) (emphasis omitted).²

On September 16, 2026, following a thirty-day extension during which to respond, 65 P.S. § 67.902(b),³ the City purported to grant the Request (“Final Response”), disclosing a five-page Purchase Order Listing by Vendor Name and a one-page Breakdown of Expenditure Account Current/Prior Received/Prior Open report.

On September 21, 2026, the Requester appealed to the Office of Open Records (“OOR”), arguing that the Request was deemed denied⁴ and stating grounds for disclosure. The OOR invited both parties to supplement the record and directed the City to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

On October 1, 2026, the City filed copies of the July 2026 Financial Review and Monthly Financial Schedules. The City also submitted the attestation of Josie Hutzler (“Hutzler Attestation”), City Agency Open Records Officer (“AORO”), which is made pursuant to 18 Pa.C.S. § 4904 and indicates, in part, that certain records do not exist and that all responsive records have been disclosed.

In response, on October 3-4, 2026, the Requester made two submissions, arguing, in part, that the July 2026 Financial Review is not responsive to the Request and that additional responsive records must exist because of the City’s Home Rule Charter and/or various resolutions. In addition, the Requester states that he “continues to seek access to the records of and reporting of

² The Request, which is nine pages long, is summarized here for efficiency’s sake. *See* Requester Appeal, pp. 34-42.

³ On September 10, 2026, the City sought an additional extension from the Requester to respond to the Request, to which he did not agree. *See* Requester Appeal, pp. 15, 22, 25-26; *see also* 65 P.S. § 67.902(b)(2).

⁴ *See* Requester Appeal, pp. 4-5, 23-24. Despite the Requester’s argument, the Request was not deemed denied because the City emailed the Requester on September 16, 2026, within the extension period, and disclosed some responsive records. *Id.* at pp. 12-21, 43-48.

encumbrances of all City...Funds for the period of January 1, 2026 [thorough] June 30, 2026, as required in the Monthly Financial reports for the months of” January-June 2026, “and not Purchase Orders, as was in the” Hutzler Attestation.⁵

LEGAL ANALYSIS

The City 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 City 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)). Likewise, “[t]he burden of proving a record does not exist ... is placed on the agency responding to the right-to-know request.” *Hodges v. Pa. Dep’t of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011) (citing 65 P.S. § 67.708).

1. The appeal is dismissed as moot in part

During the pendency of this matter, the City provided ten pages of Monthly Financial Schedules for the timeframe requested, which included a Schedule of Cash Balances, Statement of Revenues and Expenditures, Schedule of Expenditures by Natural Classification, Payroll Analysis, Real Estate Tax Levy and Collections, Statement of Other Local Taxes, Schedule of

⁵ The Requester’s October 3-4, 2026 submissions were received after the deadline imposed by the OOR; however, they were still considered to further develop the appeal record. *See* 65 P.S. § 67.1102(b)(3) (stating that “the appeals officer shall rule on procedural matters on the basis of justice, fairness, and the expeditious resolution of the dispute”).

Long-Term Debt and Capital Investment Fund Statement of Capital Expenditures. In addition, the City disclosed the ten-page July 2026 Financial Review, which contrary to the Requester's assertions, appears to be responsive to the Request because it includes information concerning the disclosed Monthly Financial Schedules. Therefore, the appeal is dismissed as moot, insofar as it relates to the information provided on appeal. *See Chester Water Auth. v. Pa. Dep't of Cmty. & Econ. Dev.*, 249 A.3d 1106, 1114 (Pa. 2021) (finding that a matter was settled by provision of records, and thus, "the controversy has been mooted").

2. The City demonstrated that no additional responsive records exist

In response to a request for records, "... an agency shall make a good faith effort to determine ... whether the agency has possession, custody or control of the identified record[.]" 65 P.S. § 67.901; *see also Uniontown Newspapers, Inc. v. Pa. Dep't of Corr.*, 185 A.3d 1161, 1171-72 (Pa. Commw. Ct. 2018), *aff'd*, 243 A.3d 19 (Pa. 2020) (defining the term "good faith effort" to include the open records officer advising all custodians of potentially responsive records about the request, obtaining all such records from those in possession, contacting agents within its control and reviewing the records to assess their public nature under the RTKL). 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, e.g., Burr v. Pa. Dep't of Health*, OOR Dkt. AP 2021-0747, 2021 PA O.O.R.D. LEXIS 750; *Mollick v. Twp. of Worcester*, 32 A.3d 859, 875 (Pa. Commw. Ct. 2011).

Here, the City's attestation, which is authored by Ms. Hutzler, an individual who is familiar with its records and conducted the search, affirms that she inquired with "Finance staff," and that they initially "believed that fulfilling the [R]equest might require pulling individual finance records, invoices, and purchase orders for every transaction referenced across the listed funds."

Hutzler Attestation, ¶ 3.⁶ However, after “an extensive discussion with the City’s Finance Fractional Controller, Maher-Duessel, the Finance Offices, and City Solicitor Aimee Willett,” and after “reviewing the City’s accounting practices, reporting structure, GASB terminology, and fund classifications[,]” “Jon Tilelli, an employee of Maher-Duessel..., confirmed that the City...does not use encumbrance accounting, and has not used encumbrance accounting for at least the past five years.” *Id.* at ¶ 4. As such, Ms. Hutzler and the aforementioned individuals determined that “encumbrance records do not exist[,]” and Ms. Hutzler further determined that “the most accurate and complete information available in the City’s systems was the full listing of all purchase orders created and fulfilled year-to-date, which accurately reflects every obligation incurred regardless of fund category[,]” which was disclosed to the Requester with the Final Response. *Id.* at ¶ 5. In addition, the attestation explains that “[a] central component of...[the] [R]equest relied on the [mistaken] assumption that the City uses encumbrance accounting and maintains formal ‘encumbered’ records for each fund.” *Id.* at ¶ 2.

The City’s attestation further affirms that, based on the inclusion of the Schedule of Cash Balances as of May 31, 2026, in the appeal, Ms. Hutzler “was able to identify which specific report the [R]equester was seeking” and provided “the most updated version of that report” to the Requester on October 1, 2026, along with the July 2026 Financial Review and Monthly Financial Schedules. *Id.* at ¶ 7. In addition, the attestation demonstrates that “the same monthly reports are made available to the public on the City...website (johnstownpa.gov) as part of the City Council

⁶ 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. Off. of Open Records*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010). In the absence of any evidence that the City has acted in bad faith, “... the averments in the [attestation] should be accepted as true.” *McGowan v. Pa. Dep’t of Env’tl. Prot.*, 103 A.3d 374, 382-83 (Pa. Commw. Ct. 2014) (citing *Off. of the Governor v. Scolforo*, 65 A.3d 1095, 1103 (Pa. Commw. Ct. 2013)).

meeting agendas when they are provided by Maher-Duessel.” *Id.*⁷ The attestation also reflects that, based on the above, Ms. Hutzler determined that the disclosed records are the only responsive records that exist. Hutzler Attestation, ¶ 8.

On appeal, the Requester argues that additional responsive records must exist because the City’s Home Rule Charter, various City resolutions and/or the City Operating Budgets require there to be records of encumbrances and/or for the Director of Finance through the City Manager to submit to City Council a printed copy of each calendar month’s closing financial report by the second Wednesday of the following month, which must detail revenues and expenditures, including the amount encumbered, and information concerning, in part, the Conference Center and the Rehabilitation Loan Funds.⁸ Despite those arguments, the OOR makes no determinations as to whether any additional responsive 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. Moreover, whether the City has failed to comply with its Home Rule Charter or resolutions is outside the scope of the instant appeal and the purview of the OOR.

Accordingly, contrary to the Requester’s assertions, the evidence presented by the City is sufficient to establish that a good faith search was conducted and that other than the disclosed records, no additional responsive records currently exist within the possession, custody or control of the City. *See Pa. Dep’t of Health v. Mahon*, 283 A.3d 929, 936 (Pa. Commw. Ct. 2022) (explaining that “[i]t is questionable to what degree additional detail and explanation are necessary

⁷ Section 704(b) of the RTKL permits an agency to respond to a request for records “by notifying the requester that the record is available through publicly accessible electronic means” 65 P.S. § 67.704(b)(1). Directing a requester to an internet website satisfies an agency’s obligation under 65 P.S. § 67.704. *See Hutchman v. Allegheny Cnty.*, OOR Dkt. AP 2026-0208, 2026 PA O.O.R.D. LEXIS 581, *4-5.

⁸ Notably, the records disclosed on appeal include information concerning the funds identified in the Request, including the Conference Center and Rehabilitation Funds.

to establish the nonexistence of a record rather than its exemption from disclosure”) (quoting *Hodges*, 29 A.3d at 1192); *Campbell v. Pa. Interscholastic Athletic Ass’n*, 268 A.3d 502 (Pa. Commw. Ct. 2021) (noting that an agency 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 in part** and **dismissed as moot in part**, and the City 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 Cambria 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.⁹ 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 15, 2026

/s/ Megan Burns

MEGAN BURNS
APPEALS OFFICER

Sent via OOR Portal to: Jack Williams; Josie Hutzler, AORO; and Aimee Willett, Esq.

⁹ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).