



FINAL DETERMINATION

IN THE MATTER OF	:
	:
TYLER MCCAFFERY and PLUMBERS	:
UNION LOCAL 690,	:
Requester	:
	:
v.	:
	:
BUCKS COUNTY,	:
Respondent	:

Docket No: AP 2026-4099

FACTUAL BACKGROUND

On September 15, 2026, Tyler McCaffery, Esq., and Plumbers Union Local 690 (collectively the “Requester”), submitted a request (“Request”) to Bucks County (“County”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking:

1. ...[A]ll records and documents, including weekly payroll certifications, showing, containing, or referencing the full names of employees employed by and/or working for Integrity Mechanical, Inc.,] [(“Integrity”)] (PO Box 870, Plumsteadville, PA 18949) on the Project located at Lower Bucks Service Center, Levittown, PA 19055 (Project Serial # Spec#01/02/2024; Project # PO #91267-1) for the period of November 1, 2025 through the date of production.
2. ...[A]ll records and documents identifying the full legal names of the following employees, as identified by Integrity [] on weekly payroll certifications for the below-identified weeks as working on the Project located at Lower Bucks Service Center, Levittown, PA 19055 (Project Serial # Spec#01/02/2024; Project # PO #91267-1): Week Ending Date: 10/26/2025 - Employee Name(s): AAB01 and ADF01; Week Ending Date: 11/02/2025 - Employee Name(s): AAB01, ADF01, and WAC; Week Ending Date: 11/09/2025 - Employee Name(s): ADF01; Week

Ending Date: 11/16/2025 - Employee Name(s): ADF01; Week Ending Date: 11/23/2025 - Employee Name(s): ADF01.

3. ...[A]ll records Integrity [] is required to create and maintain pursuant to 34 Pa. Code Section 9.109(1), 43 P.S. Section 165-6, and 43 P.S. Section 165-10 with respect to the Project located at Lower Bucks Service Center, Levittown, PA 19055 (Project Serial # Spec#01/02/2024; Project # PO #91267-1).

On September 21, 2026, the County denied the Request, claiming the Request is duplicative of a prior Request, 65 P.S. § 67.506(a).

On September 23, 2026, the Requester filed an appeal with the Office of Open Records (“OOR”), challenging the denial and stating grounds for disclosure. Specifically, the Requester indicates the Request cannot be denied as a duplicative request when the prior request was deemed denied due to the County’s untimely response.¹ Additionally, the Requester argues that the County is required to provide the responsive records with the full names of the employees² in accordance with the Pennsylvania Prevailing Wage Act (“PWA”), 43 P.S. § 165-1, and Section 506(d)(1) of the RTKL, 65 P.S. § 67.506(d)(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 this appeal. 65 P.S. § 67.1101(c).

On October 5, 2026, the County submitted an attestation, made subject to the penalties of unsworn falsification to authorities, 18 Pa.C.S. § 4904, authored by Desiree Milillo (“Milillo Attestation”), the County’s Legal Administrator for the Law Department and Agency Open Records Officer (“AORO”). The County asserts that unredacted responsive certified payroll records were provided to the Requester on August 10, 2026, in response to a request internally

¹ The Requester appealed the County’s prior deemed denial, which was ultimately dismissed by the OOR as an untimely appeal. *See McCaffery v. Bucks County*, OOR Dkt. AP 2026-3569, 2026 PA O.O.R.D. LEXIS 3205.

² Prior certified payroll records received by the Requester in 2025 included identifiers such as “AAB01,” “ADF01” and “WAC.” *See* Requester appeal p. 6.

labeled as RTK 2026-297. The County additionally explains that the records were provided to the Requester in the same format in which the records were received by the County from Integrity.³

On October 14, 2026, at the request of the OOR, the County submitted a second attestation subject to the penalties of unsworn falsification to authorities, 18 Pa.C.S. § 4904, authored by Desiree Milillo (“Milillo Second Attestation”). The County indicates that following contact with Integrity, the County confirmed that Integrity only provides the payroll forms with employee ID numbers, and not the full names of the employees, in order to protect the privacy of Integrity’s employees.⁴

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)). 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).

1. The Request is not duplicative or repetitive

The County argues that the Request is *duplicative*, i.e. repetitive, as the Requester made a

³ *See* Milillo Attestation ¶ 5.

⁴ *See* Milillo Second Attestation ¶ 9.

similar prior request. Section 506(a) of the RTKL provides that “[a]n agency may deny a requester access to a record if the requester has made repeated requests for that same record and the repeated requests have placed an unreasonable burden on the agency.” 65 P.S. § 67.506(a). “Under this section ... an agency must demonstrate that (1) ‘the requester has made repeated requests for th[e] same record[(s)]’ and (2) ‘the repeated requests have placed an unreasonable burden on the agency.’” *Pa. Office of the Governor v. Bari*, 20 A.3d 634, 645 (Pa. Commw. Ct. 2011); *see also Slate v. Pa. Dep’t of Env’tl. Prot.*, OOR Dkt. AP 2009-1143, 2010 PA O.O.R.D. LEXIS 97 (“A repeated request alone is not enough to satisfy § 506(a)(1)”). Repeated requests for the same records, although phrased differently, may be denied as disruptive. *See Cohen v. Pa. Dep’t. of Labor & Industry*, OOR Dkt. AP 2009-0296, 2009 PA O.O.R.D. LEXIS 159; *Dougher v. Scranton Sch. Dist.*, OOR Dkt. AP 2009-0798, 2009 PA O.O.R.D. LEXIS 318 (“Slight differences in phraseology do not preclude application of [Section 506(a)]”). In *Mezzacappa v. West Easton Borough*, the OOR held that a request must be repeated more than once to constitute a “repeated request” for purposes of 65 P.S. § 67.506(a). OOR Dkt. AP 2012-0992, 2012 PA O.O.R.D. LEXIS 967 (“Because the Borough has only established that the Requester has made one repeated request, rather than multiple ‘repeated requests,’ the OOR finds that the Request was not disruptive”). The OOR’s decision in *Mezzacappa* was subsequently upheld by the Northampton County Court of Common Pleas and the Commonwealth Court. *Borough of West Easton v. Mezzacappa*, No. C-48-CV-2012- 7973 (North. Com. P1. Jan. 9, 2013) (“[A] request is not disruptive when a requester [seeks] the same records only twice”), *aff’d* 74 A.3d 417 (Pa. Commw. Ct. 2013).

Here, the County has not demonstrated that the Request is repetitive and burdensome. While the County claims the Requester submitted one prior request for the same records, the County has provided no evidence regarding any burden. Accordingly, the County has not

demonstrated that the Request is repetitive or duplicative pursuant to Section 506(a) of the RTKL. *See* 65 P.S. § 67.506(a); *see also Anderson and All That Philly Jazz v. City of Phila.*, OOR Dkt. AP 2023-1840, 2023 PA O.O.R.D LEXIS 2694.

2. The County has demonstrated that some responsive records do not exist

The County asserts that records containing the names of Integrity’s employees do not exist in the County’s possession, custody or control. In response to a request for records, “an agency shall make a good faith effort to determine if ... the agency has possession, custody or control of the record[.]” 65 P.S. § 67.901. While the RTKL does not define the term “good faith effort,” in *Uniontown Newspapers, Inc. v. Pa. Dep’t of Corr.*, the Commonwealth Court stated:

As part of a good faith search, the open records officer has a duty to advise all custodians of potentially responsive records about the request, and to obtain all potentially responsive records from those in possession... When records are not in an agency’s physical possession, an open records officer has a duty to contact agents within its control, including third-party contractors ... After obtaining potentially responsive records, an agency has the duty to review the records and assess their public nature under ... the RTKL.

185 A.3d 1161, 1171-72 (Pa. Commw. Ct. 2018) (citations omitted), *aff’d*, 243 A.3d 19 (Pa. 2020). 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 Burr v. Pa. Dep’t of Health*, OOR Dkt. AP 2021-0747, 2021 PA O.O.R.D. LEXIS 750; *see also Mollick v. Twp. of Worcester*, 32 A.3d 859, 875 (Pa. Commw. Ct. 2011).

Under Section 705 of the RTKL, when responding to a request, “an agency shall not be required to create a record which does not currently exist or to compile, maintain, format or organize a record in a manner in which the agency does not currently compile, maintain, format or organize the record.” 65 P.S. § 67.705; *see also Moore v. Office of Open Records*, 992 A.2d 907,

909 (Pa. Commw. Ct. 2010) (holding that an agency cannot be made to create a record that does not exist).

Here, the Request seeks certified payroll records of a County contractor that contain the full names of the contractor's employees. The Requester asserts that Integrity is required to maintain these records in accordance with the PWA,⁵ and as such, the County failed to obtain responsive records in accordance with Section 506(d)(1) of the RTKL. In support of the County's argument that it does not possess the responsive records, the Milillo Attestations explain that the records previously supplied to the Requester were unredacted and supplied in the format in which those records were received by the County. Milillo Attestation ¶¶ 5-8; Milillo Second Attestation ¶¶ 5-8.⁶ Additionally, on October 13, 2026, the AORO contacted Integrity's Project Manager, who confirmed that Integrity only provides the payroll forms with employee ID numbers, and not the full names, in order to protect the privacy of Integrity's employees. Milillo Second Attestation ¶ 9.

The Requester asserts that the County is required to obtain certified payroll records with the full names of Integrity's employees; however, as noted, the County contacted Integrity regarding the responsive records that Integrity provided to the County, and as such, a further analysis of Section 506(d)(1) of the RTKL is not necessary. *See* 65 P.S. § 506(d)(1). Thus, the County has demonstrated that a good faith search for responsive records was performed.

Further, the OOR has previously held that an agency may redact the names of private employees from certified payroll records in *Johnson v. City of Erie*, OOR Dkt. AP 2022-2668,

⁵ Of note, the OOR has no jurisdiction over the Requester's claim that the County is not complying with the PWA.

⁶ Under the RTKL, an affidavit or statement made under 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 County has acted in bad faith, "the averments in the [attestations] 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)).

2023 PA O.O.R.D. LEXIS 153. This finding in *Johnson* is consistent with the Commonwealth Court’s decision in *Pa. Dep’t of Conservation and Natural Res. v. Office of Open Records*, 1 A.3d 929 (Pa. Commw. Ct. 2010) (“DCNR”). Specifically, the OOR noted in *Johnson*:

As noted in *DCNR*, Section 708(c) of the RTKL permits agencies to redact certain information from financial records. A.3d at 942-43. In *DCNR*, the Court held that the agencies did not abuse their discretion under Section 708(c) of the RTKL in redacting names and/or home addresses from certified payroll records to ‘shield the personal nature of the financial information ... which is protected under Section 708(b)(6)(i)(A) of the RTKL. *Id.* at 942. *DCNR* found no error in an agency’s decision to exercise the discretion afforded to them under the RTKL to redact names of workers in Certified Payroll Records. As was the case in *DCNR*, here, the City redacted the names of the employees from the Certified Payroll Records before granting access.

Johnson at * 3-4.

Thus, based on the evidence provided, the County has demonstrated that it does not possess any additional responsive records, i.e., certified payroll records containing the full names of Integrity employees, other than the payroll records previously provided to the Requester. There has been no sufficient evidence provided by the Requester that otherwise contradicts the statements offered by the County in the attestations submitted. *See Pa. Dep’t of Health v. Mahon*, 283 A.3d 929 (Pa. Commw. Ct. 2022). Therefore, based on the evidence provided, the County has met its burden of proof that additional records responsive to the Request do not exist in the County’s possession, custody or control.⁷ *Hodges*, 29 A.3d at 1192. However, “nothing in the RTKL excuses an agency from responding to a request for records because the records were previously provided in response to a prior request for records.” *Tomasic v. Forest Hills Volunteer Fire Dep’t*, OOR Dkt. AP 2015-1436, 2015 PA O.O.R.D. LEXIS 1214 (internal citations omitted); *see also Mercer v. Saucon Valley School Dist.*, OOR Dkt. AP 2026-2468, 2026 PA O.O.R.D. LEXIS 2496.

⁷ The OOR makes no determination as to whether 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.

Therefore, the County must provide the records responsive to the instant Request that were previously provided to the Requester. *See Hodges*, 29 A.3d at 1192; *Mahon* 283 A.3d at 936.

CONCLUSION

For the foregoing reasons, the appeal is **granted in part** and **denied in part**, and the County is required to provide the responsive certified payroll records in the County's possession that were not provided in response to the instant Request, as described above, 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 to the Bucks 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 as per Section 1303 of the RTKL; however, 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.⁸ 65 P.S. § 67.1303. 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 19, 2026

/s/ Bandy L. Jarosz

BANDY L. JAROSZ, ESQ.
APPEALS OFFICER

Sent to: Tyler McCaffery, Esq. (via portal only)
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⁸ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).