



FINAL DETERMINATION

IN THE MATTER OF	:
	:
JAMES HARRIS,	:
Requester	:
	:
v.	: Docket No: AP 2026-3566
	:
CENTER TOWNSHIP,	:
Respondent	:

On August 13, 2026, James Harris (“Requester”) submitted a request (“Request”) to Center Township (“Township”) pursuant to the Right-to-Know-Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking the following records from March 1, 2023, through August 13, 2026:

Category 1: Emergency Operations and Implosion Coordination

Any and all records, communications, emails, text messages, Microsoft Teams transcripts, radio logs, dispatch records, mobile command post logs, and WebEOC incident entries associated with the March 22, 2025, chimney stack and boiler implosions at the Homer City Generating Station. This includes, but is not limited to:

A. All communications between Center Township officials/EMA personnel and Indiana County EMA, the Pennsylvania State Police, PEMA, Demtech, and Homer City Redevelopment LLC (including vice president Robin Gorman) regarding the physical staging, road closures, drone flight paths, public safety notifications, and evacuation zones for the implosion.

B. All records and emails concerning the login credentials, downloads, or access to the PEMA WebEOC FTP server and PEMA Incident Log #78672 shared with or accessed by Center Township officials.

Category 2: Local Land Use, Zoning, and Permit Approvals

Any and all records, applications, reviews, approvals, conditional use permits, subdivision and land development (SALDO) plans, zoning variances, building permits, sewage/water connection authorizations, and demolition permits submitted by, negotiated with, or issued to Homer City Redevelopment LLC, AECOM, Michael Baker International, or any contractor working on the Homer City Generating Station site. This includes all minutes, agendas, handouts, and public comments from Center Township Board of Supervisors, Planning Commission, or Zoning Hearing Board meetings where the demolition of the coal-fired plant or the development of the data center and natural gas pipeline was discussed.

Category 3: Specific Custodian Communications

All emails, text messages, letters, and written correspondence exchanged between Center Township Supervisors, the Township Secretary/Manager, or the Township EMA Coordinator and any of the following entities or individuals regarding the Homer City redevelopment project:

A. Representative Robin Gorman (acting as Indiana County Commissioner or as Vice President of Homer City Redevelopment LLC).

B. Solicitor Matthew Budash, Chief Clerk Robin Maryal, or any Indiana County Commissioner.

C. Representatives, lobbyist, or project managers from AECOM, Demtech, or Homer City Redevelopment LLC.

D. Officials from the PA Department of Environmental Protection (DEP) Northwest Regional Office.

The Township did not respond within five business days of receiving the Request, and the Request was, therefore, deemed denied on August 20, 2026. 65 P.S. § 67.901.¹

On August 28, 2026, the Requester filed an appeal with the Office of Open Records (“OOR”), challenging the deemed denial. The OOR invited both parties to supplement the record

¹ In the Township’s submission, the Township states that due to an administrative oversight, an extension letter was not served timely on the Requester.

and directed the Township to notify the OOR if any third parties have a direct interest in this appeal. 65 P.S. § 67.1101(c).

On September 8, 2026, the Township submitted a position statement with the supporting affidavit of Samantha Pittman, (“Pittman Affidavit”), Agency Open Records Officer (“AORO”).

The Township 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 Township 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)).

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 identified 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 all 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 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 Township has acted in bad faith or that the requested records exist, "the averments in [the Affidavit] should be accepted as true." *McGowan v. Pa. Dep't of Env't. 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)).

Ms. Pittman affirms that upon receipt of the Request, she conducted a search of the Township's email accounts, hard files, and meeting minutes for responsive records. Pittman Affidavit, ¶2. She also instructed the Township Supervisors to search their Township email accounts and personal devices for emails and text messages responsive to the Request. *Id.* at ¶3. With respect to Category 1 of the Request, the Pittman Affidavit explains that upon receipt of the Request, the Township searched email accounts for email communications to or from the following parties and for the key word "implosion": (1) Indiana County EMA; (2) the Pennsylvania State Police; (3) PEMA; (4) Demtech; (5) Homer City Redevelopment, LLC; and (6) Robin Gorman. *Id.* at ¶8. Twenty-two responsive records were found.² Pittman Affidavit, ¶10.³

² The OOR's review of the position statement reveals that six of these records were responsive to Category 1, subsection A.

³ The Requester disputes the evidence provided by the Township; for example, he argues that there are meeting minutes confirming road closures, however he does not provide any evidence to support his assertion.

The Township does not have login credentials or records concerning PEMA WebEOC FTP server and PEMA Incident Log #78672. *Id.* at ¶7.⁴

With respect to Category 2, the Township’s position statement explains that the Township is unzoned. The Pittman Affidavit attests that the Township does not possess, keep or maintain records of zoning variances, subdivision and land development (SALDO) plans, or sewage/water connection authorizations. *Id.* at ¶4. There is no Planning Commission or Zoning Hearing Board. *Id.* at ¶5. Ms. Pittman further affirms that prior to April 2026, the Township did not conduct demolition permitting activities. *Id.* at ¶6. Indiana County handled demolition permitting functions and the Township solely completed Municipal Review Checklists. *Id.* Seven Municipal Review Checklists relative to demolition activities at the Home City Generation Station site were found and provided to the Requester. *Id.* The Requester confirmed that the checklists were provided to him.

The Township argues that the balance of the Request under Category 2 was denied pursuant to Section 403.85(e) of Pennsylvania’s Uniform Construction Code (“UCC”). 34 Pa. Code §403 *et seq.* This section of the UCC provides that “a municipality and a third-party agency acting on behalf of a municipality may prohibit release of applications received, building plans and specifications, inspection reports and similar documents to the public.” 34 Pa. Code § 403.85. The Township stated in its position statement that it provided the Requester with spreadsheet details of building permits submitted by Homer City Development, stating the date and invoice number

⁴ The Township argues that a portion of the Request in Category 1 is insufficiently specific. However, as the Township was able to search for responsive records and either produced them or was not in the possession, custody or control of the records, the OOR will not address this argument. The language “[t]his includes, but is not limited to” is not insufficiently specific when the Requester named the subject matter, scope of documents sought and provided a timeframe. *Pa. Dep’t of Educ. v. Pittsburgh Post-Gazette*, 119 A.3d 1121 (Pa. Commw. Ct. 2013).

associated with each permit application. The Requester confirmed that the invoice log was provided to him.

Category 3 of the Request sought specific custodian communications. The Pittman Attestation states that the Township conducted a search of its written correspondences and email accounts for communications to and from the following individuals and entities: (1) Robin Gorman; (2) Matthew Budash; (3) Robin Maryai; (4) Indiana County Commissioners; (5) AECOM; (6) Demtech; (7) Home City Redevelopment; and (8) Pennsylvania Department of Environmental Protection. *See* Pittman Affidavit, ¶9. Twenty-two responsive records were found.⁵ *Id.* at ¶10. Redactions were made to one email dated April 27, 2026, redacting personal email addresses pursuant to Section 708(b)(6)(i)(A). 65 P.S. § 67.708(b)(6)(i)(A). Th

A total of twenty-nine documents were provided to the Requester in response to his Request. This included twenty-two emails responsive to Category 1 and 3 and seven responsive records to Category 2. The Township lawfully withheld responsive records in Category 2 as exempt under the UCC. 34 Pa. Code § 403.85. Ms. Pittman attests that no further responsive records exist, Pittman Affidavit, ¶¶10-11, and the Township has met its burden of proof in this regard. *Hodges v. Pa. Dep't of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011).

For the foregoing reasons, the appeal is **denied** and the Township 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 or petition for review to the Indiana 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

⁵ The OOR's review of the position statement reveals that sixteen of these records were responsive to Category 3.

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 website at: <http://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: October 20, 2026

/s/ Meryl M. Peterman

MERYL M. PETERMAN, ESQ.
APPEALS OFFICER

Sent via OOR E-file appeal portal to: James Harris
Samantha Pittman, AORO

⁶ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).