



FINAL DETERMINATION

IN THE MATTER OF

**VICTOR PEREZ,
Requester**

v.

**READIN PARKING AUTHORITY,
Respondent**

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Docket No: AP 2026-4083

On September 21, 2026, Victor Perez (“Requester”) submitted a request (“Request”) to the Reading Parking Authority (“Authority”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking:

1. Any ordinance, resolution, rule, policy, regulation, agreement, memorandum, written directive, or other record that establishes or identifies the qualifications required for an individual to serve as a Reading Parking Authority hearing officer, including any requirement concerning admission to practice law or attorney status.
2. Any ordinance, resolution, legislative enactment, board action, policy, agreement, memorandum, written directive, or other record that amended, repealed, superseded, replaced, modified, or otherwise changed the qualifications applicable to a Reading Parking Authority hearing officer established by Ordinance 8-97, including any record establishing that a qualification contained in Ordinance 8-97 is no longer applicable.
3. Any ordinance, resolution, board action, policy, agreement, memorandum, written directive, or other record establishing the process or authority by which an individual may be appointed, designated, retained, or authorized to serve as a Reading Parking Authority hearing officer, including records identifying the governmental body, officer, employee, or other entity possessing that authority.

4. Any records identifying the legal or administrative instrument under which the current independent hearing officer system operates, including any record establishing when that system was created or authorized and by what governmental action.

5. Any records reflecting the Authority's adoption, implementation, interpretation, or application of the hearing officer qualification or appointment provisions contained in Ordinance 8-97 and any subsequent legislation governing administrative parking appeals.

6. Any records sufficient to identify whether the Authority maintains or relies upon a written qualification standard, appointment procedure, policy, or other governing document for individuals serving as independent hearing officers.

On September 22, 2026, the Authority partially denied the Request, by providing a copy of Reading City Ordinance 576-518 in response to Item 4 of the Request. Regarding Item 2, the Authority stated, "8-97 was replaced by a Cooperation Agreement between the City and the RPA in 2001 and that Cooperation Agreement was replaced by an Amended Cooperation Agreement in 2021[.]" and that "[c]opies of the Cooperation Agreement and the Amended Cooperation Agreement were previously given to you." Regarding Items 1, 3, 5 and 6, the Authority stated that the records do not exist within the Authority's possession, custody or control.

On September 22, 2026,¹ the Requester filed an appeal with the Office of Open Records ("OOR"), challenging the partial denial and stating grounds for disclosure.² The OOR invited both parties to supplement the record and directed the Authority to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

On October 5, 2026, the Authority submitted an attestation authored by Mahlon Boyer, Esq., the Authority's solicitor and Open Records Officer ("Boyer Attestation"), that was made

¹ The appeal indicates that the Authority's final response was issued on September 22, 2026. However, the copy of the transmittal email from Attorney Boyer was undated. On October 15, 2026, the OOR directed the parties to confirm the response date and provide a copy of the dated response. While both parties accessed the docket in this matter through the OOR Appeal Portal, to date we have not received a reply.

² Based on a review of the appeal, the Requester is not challenging the Authority's response to Item 4, and he does not dispute receiving a copy of Reading City Ordinance 576-518. Therefore, the Authority's response to Item 4 will not be addressed in this Final Determination.

subject to the penalties set forth in 18 Pa.C.S. § 4904, relating to unsworn falsifications to authorities. Boyer attests that Reading City Ordinance 576-518 was provided to the Requester and, based the search for records, it was determined that no additional responsive records responsive to exist in the Authority's possession, custody or control.³

On October 6, 2026, the Requester submitted a rebuttal statement and corresponding exhibits, claiming that the Authority's evidence does not demonstrate a sufficient search and it fails to detail what records were searched and who within the Authority was contacted regarding the existence of records. The Requester argues that similar to *Perez v. Reading Parking Auth.*, OOR Dkt. AP 20026-3475,⁴ wherein the OOR concluded that the Authority's evidence was not sufficient to establish that a good faith search was conducted, the same should be found here.

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

³ 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 Authority has acted in bad faith or that additional responsive records exist, "the averments in [the Boyer Attestation] 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)).

⁴ 2026 PA O.O.R.D. LEXIS 3424.

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).

Initially we note that the Authority's response to Item 2 indicated that the 2021 Cooperation Agreement between the Authority and Reading City had previously been provided to the Requester. 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; *Long v. Bath Borough*, OOR Dkt. AP 2026-2665, 2026 PA O.O.R.D. LEXIS 3319. Therefore, as it appears the Authority views the Cooperation Agreement to be responsive to Item 2, it is required to provide a copy to the Requester.

Regarding Items 1, 3, 5, and 6, the Boyer Attestation provides:

- There is no ordinance provision or agreement between the Authority and the City of Reading regarding specific qualifications for a hearing officer.
- Some of the requests from Mr. Perez centered on Ordinance 8-97, which was replaced in 2001 and is not applicable. This was confirmed in response to the Request.
- There is no ordinance nor any document that establishes or identifies the qualifications for the hearing officer.
- There is no ordinance nor any document that establishes the process the RPA has to follow for the appointment and/or retention of a hearing officer.
- The Authority does not maintain nor rely on any specific qualification standard, appointment procedure, policy or document for the hiring a hearing officer.

See Boyer Attestation, ¶ 6. Boyer further attests that the “response to the Request was sent by [him] to the [Authority] and the [Authority] approved [the] response...”.

As set forth above, the Requester claims that the analysis employed in AP 2026-3475, should be applied here because the Authority’s evidence is similarly lacking in detail regarding the search for records. In AP 2026-3475, the claim was that the Authority’s search was insufficient because, while records were provided, the Authority did not respond to portions of that request. The OOR concluded that the attestation was conclusory because it was authored by an employee of the Authority without identifying the person as a records custodian or whether she possessed personal knowledge of the requested records and it was devoid of evidence that the Authority’s Open Records Officer, Attorney Boyer, even participated in the search. 2026 PA O.O.R.D. LEXIS **3-5. The OOR further concluded that the evidence did not address the failure to respond to portions of that request. *Id.* The OOR determined that the evidence was conclusory and did not meet the preponderance of the evidence standard. *Id.*

By comparison, in this matter the Boyer Attestation establishes that the Authority’s Open Records Officer – Boyer – worked in conjunction with the Authority. An agency “may satisfy its burden of proof...with either an unsworn attestation by the person who searched for the record or a sworn affidavit of nonexistence of the record.” *Pa. Dep’t of Health v. Mahon*, 283 A.3d 929, 936 (Pa. Commw. Ct. 2022) (quoting *Hodges v. Pa. Dep’t of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011)). While the evidence is considerably less than detailed, it should be noted, however, that the holding of the Commonwealth Court in *Mahon* does not appear to establish a bright-line rule. 283 A.3d at 936. Furthermore, 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. *Campbell v. Pa. Interscholastic Athletic Ass’n*, 268 A.3d 502 (Pa. Commw. Ct. 2021).

In this matter, the Authority’s Open Records Officer attests to the non-existence of records responsive to Items 1, 3, 5 and 6, and that he obtained the Authority’s approval of his responses. Therefore, based on the evidence provided, we find the Authority has met its burden of proof, by a preponderance of the evidence, that it does not possess the records sought in Items 1, 3, 5 and 6 of the Request. *Hodges v. Pa. Dep’t of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011).

For the foregoing reasons, the appeal is **granted in part** and **denied in part**, and the Authority must provide the responsive 2021 Amended Cooperation Agreement that is responsive to Item 2 of the Request. 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 Berks 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.⁵ 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>.

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

FINAL DETERMINATION ISSUED AND MAILED: October 20, 2026

/s/ Kelly C. Isenberg

KELLY C. ISENBERG
DEPUTY CHIEF COUNSEEL

Sent via OOR E-file Portal to: Victor Perez; Mahlon Boyer, Esq., AORO