



FINAL DETERMINATION

IN THE MATTER OF	:
	:
SANDRA MILLER,	:
Requester	:
	:
v.	: Docket No: AP 2026-4146
	:
BRIDGETON TOWNSHIP,	:
Respondent	:

FACTUAL BACKGROUND

On September 17, 2026 Sandra Miller (“Requester”) submitted a request (“Request”) to Bridgeton Township (“Township”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking:

1. January 2026[.] A complete copy of each Report to the Bridgeton Township Board of Supervisors prepared, submitted, distributed, presented, or provided to the Board of Supervisors during January 2026, including any attachments, exhibits, appendices, or materials incorporated into or accompanying the report.
2. July 2026 through [the date of the Request.] A complete copy of each Report to the Bridgeton Township Board of Supervisors prepared, submitted, distributed, presented, or provided to the Board of Supervisors from July 1, 2026 through the date [of this Request],¹ including any attachments, exhibits, appendices, or materials incorporated into or accompanying the report.
3. Related transmittal records[.] For each report responsive to Items 1 and 2,

¹ While the Request seeks records to “the date of the Township’s response”, a request may only seek records in existence as of the date of the request, and agencies are not required to provide records that do not exist, or have not been created, as of the time of the request. *See* 65 P.S. § 67.705 (“When responding to a request for access, an agency shall not be required to create a record which does not currently exist[.]”); *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).

copies of any cover email, transmittal correspondence, or other record showing when the report was provided to the Board of Supervisors.

On September 24, 2026, the Township denied the Request as insufficiently specific, arguing that the “term ‘report’ is open-ended, requires guess work as to what may constitute a report and places an unreasonable burden on the Township and, thus, the Request “provided is therefore overly broad and is not made with specific detail to identify the record requested.” 65 P.S. § 67.703.

On September 25, 2026, the Requester appealed to the Office of Open Records (“OOR”), challenging the denial and stating grounds for disclosure. In support of her argument that the Request is sufficiently specific, the Requester argues, among other things, that “Report to Board of Supervisors” is an identifiable record category maintained by the Township and attached a document, dated June 8, 2026 entitled “Report to Board of Supervisors”.² The OOR invited both parties to supplement the record and directed the Township to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

On October 7, 2026, the Township submitted a position statement, reiterating its argument that the Request is insufficiently specific. 65 P.S. § 67.703.

On October 7, 2026, the Requester submitted a position statement, reiterating her argument that the Request is sufficiently specific and asking the OOR to “consider whether the record supports a finding of bad faith[.]”

LEGAL ANALYSIS

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

² The report was submitted by Zoning Officer Mark D. Fournier.

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)).

1. The Request is sufficiently specific

The Township, as noted in its final response, asserts that the Request is insufficiently specific. Section 703 of the RTKL states that “[a] written request should identify or describe the records sought with sufficient specificity to enable the agency to ascertain which records are being requested.” 65 P.S. § 67.703. When determining whether a particular request is sufficiently specific, the OOR undertakes a nonexclusive, multi-factor test, considering “the extent to which the request specifies subject matter, the extent to which it defines the scope of the records it seeks, and the extent to which it limits the timeframe of the request.” *Pa. Off. of the Governor v. Brelje*, 312 A.3d 928, 937 (Pa. Commw. Ct. 2024) (citing *Pa. Dep’t of Educ. v. Pittsburgh Post-Gazette*, 119 A.3d 1121 (Pa. Commw. Ct. 2015)). The test is not “a conjunctive, bright-line rule requiring each ‘element’ of the test to be satisfied; rather, it [is] a flexible approach” consistent with relevant caselaw. *Id.*

First, “[t]he subject matter of the request must identify the ‘transaction or activity’ of the agency for which the record is sought.” *Id.* at 1125 (quoting 65 P.S. § 67.102). Second, “[t]he scope of the request must identify ‘a discrete group of documents, either by type ... or by recipient.’” *Id.* (quoting *Carey v. Pa. Dep’t of Corr.*, 61 A.3d 367, 372 (Pa. Commw. Ct. 2013)).

Finally, “[t]he timeframe of the request should identify a finite period of time for which records are sought.” *Id.* at 1126 (citing *Carey, supra*). “The timeframe prong is, however, the most fluid of the three prongs, and whether or not the request’s timeframe is narrow enough is generally dependent upon the specificity of the request’s subject matter and scope.” *Id.*

The above factors are intended “to facilitate an analysis in order to determine whether an agency can ascertain which records are being requested The subject matter, scope, and timeframe of a request are flexible, analytical elements, not evidentiary requirements.” *Pa. Dep’t of Health v. Shepherd*, No. 377 C.D. 2021, 2022 Pa. Commw. Unpub. LEXIS 207 *6-7 (Pa. Commw. Ct. 2022), *appeal denied*, No. 334 MAL 2022, 2022 Pa. LEXIS 1862 (Pa. 2022). Further, the Commonwealth Court has warned that an evaluation of sufficient specificity turns on each case’s unique facts and that a lack of subject matter does not necessarily lead to a conclusion that a request is insufficiently specific. *See Brelje*, 312 A.3d at 933; *see also Methacton Sch. Dist. v. Office of Open Records*, 271 A.3d 548 (Pa. Commw. Ct. 2021).

In this instance, the Request lacks a subject matter. The lack of a subject matter, however, is not necessarily fatal to a request. *Brelje*, 312 A.3d at 939; *see also Methacton Sch. Dist. v. Office of Open Records*, 271 A.3d 548 *4 (Pa. Commw. Ct. 2021) (unreported opinion) (“There is no bright-line rule absolutely requiring a requester to precisely identify the subject matter of the requested record.... A requester’s failure to identify a subject matter may be accorded more or less weight depending upon other factors”). The Request also has a narrow scope, seeking reports submitted to the Township Board of Supervisors, and it identifies the recipients of the reports. Further, of note, while the Township argues that Request does not identify “the particular reports, subjects, matters, projects, departments, or other distinguishing characteristics that would allow the Township to determine the scope of the records sought,” the Requester attached a document,

titled “Report to Board of Supervisors” and dated June 8, 2026. *See* Requester’s appeal, pp. 11-16. This factor, coupled with a distinct timeframe of three months (i.e. January, July, August, September 2026) supports a finding that the Request, as written, is sufficiently specific. *Pope v. City of Phila. Police Dep’t*, OOR Dkt. AP 2024-1375, 2024 PA O.O.R.D. LEXIS 1803. While it is possible for a request to lack specificity even with a narrow scope and subject matter, there is no evidence before us demonstrating that the lack of a subject matter here is so burdensome as to make the Request insufficiently specific.³ Accordingly, with the limited scope and timeframe of the Request, the Township should reasonably understand the records being sought and be able to conduct a good faith search for responsive records. *Pa. Dep’t of Educ.*, 119 A.3d at 1126. Accordingly, the Request provides sufficient specificity to enable the Township to ascertain which records are being requested. 65 P.S. § 67.703.

2. The OOR declines to make a finding of bad faith

The Requester asks the OOR to make a finding of bad faith against the Township. While the OOR may make a finding of bad faith, only a court may impose related penalties. *See* 65 P.S. §§ 67.1304(a), 1305. Under the RTKL, a finding of bad faith may be appropriate where an agency refuses to comply with its statutory duties. *See Uniontown Newspapers, Inc. v. Pa. Dep’t of Corr.*, 185 A.3d 1161, 1171-74 (Pa. Commw. Ct. 2018), *aff’d*, 243 A.3d 19 (Pa. 2020) (bad faith involves failing to perform a good faith search and review of records to ascertain if the requested material exists or if any exclusion applies prior to denial of access); *see also Off. of the Dist. Att’y. of Phila. v. Bagwell*, 155 A.3d 1119, 1140-41 (Pa. Commw. Ct. 2017) (a finding of bad faith was warranted where the agency based a denial on the identity of the requester, refused to provide a legal rationale

³ For example, there is no evidence before us that the Township contacted its Board of Supervisors to inquire whether responsive records exist.

for denial and did not perform a good faith search). However, such a finding is typically reserved only for an egregious or blatant violation of the RTKL. Here, the Township timely responded to the Request and has fully participated on appeal. The instant appeal record does not reflect that the Township refused to comply with its statutory duties under the RTKL. Accordingly, the OOR declines to make a finding of bad faith in this matter.

CONCLUSION

For the foregoing reasons, the appeal is **granted in part** and **denied in part**, and the Township is required to provide the records responsive to the Request to the Requester within thirty days or, alternatively, a sworn affidavit or statement made under the penalty of perjury describing the Township's search for records and confirming that no responsive records exist within the Township's possession, custody or control. 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. 65 P.S. § 67.1303. 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.⁴ 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>.

⁴ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).

FINAL DETERMINATION ISSUED AND MAILED: October 22, 2026

/s/ Lyle Hartranft

LYLE HARTRANFT, ESQ.
APPEALS OFFICER

Sent via e-file portal to: Sandra Miller; Sheryl Patterson, AORO