



FINAL DETERMINATION

IN THE MATTER OF

**DANIEL CARLSON,
Requester**

v.

**VALLEY TOWNSHIP,
Respondent**

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Docket No: AP 2026-3666

FACTUAL BACKGROUND

On July 27, 2026, Daniel Carlson (“Requester”) submitted a request (“Request”) to Valley Township (“Township”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking:

...For March 10, 2023 through March 31, 2023, inclusive, provide every email concerning Township review, approval, permitting, codes administration, engineering or plan review, inspection, structural or foundation review, construction oversight, or code-compliance determinations for Valley Square, Valley Square Development, or Valley Suburban Center, including NVR, Inc./Ryan Homes residential phases, and involving at least one person listed below.

Named persons[:]

Bo Fischer - NVR, Inc./Ryan Homes[:]

Michael J. Ellis - Pennoni Associates[:]

Janis A. Rambo - Valley Township[:]

Joy Hurst - Valley Township[:]

Dave Porter - Valley Township/Township consultant[; and]

Amanda J. Sundquist - Township Solicitor/Unruh Turner Burke & Frees[.]

On September 2, 2026, following a thirty-day extension during which to respond, 65 P.S. § 67.902(b), the Township partially granted the Request, providing responsive records containing redacted criminal and noncriminal investigative information, draft policy, internal, predecisional deliberative information, personnel information and personal identification information. 65 P.S. §§ 67.708(b)(16),¹ (b)(17), (b)(9), (b)(10)(i)(A), (b)(7), (b)(6)(i)(A). The Township additionally provided a privilege log with the final response.²

On September 3, 2026, the Requester filed an appeal with the Office of Open Records (“OOR”), challenging the denial and stating grounds for disclosure.³ Specifically, the Requester asserts that the Township has not met its burden to prove in regard to the exemptions claimed and the Township failed to produce the responsive metadata.⁴ 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 this appeal. 65 P.S. § 67.1101(c).

On September 16, 2026, the Township submitted a position statement and Exhibits A through L, reiterating the Township’s basis for the partial denial of the Request. Additionally, the Township argues that the redacted material in the email located at Bates page number 61 is privileged, 65 P.S. §§ 67.102 (definition of privilege), 67.305(a)(2), and exempt pursuant to

¹ On appeal, the Township indicates it is no longer asserting the criminal investigative exemption. *See* Township position statement p. 3, fn. 3. As such, the OOR will not address Section 708(b)(16) in this Final Determination.

² *See* Requester appeal pp. 12-18.

³ The Requester granted the OOR a thirty-day extension to issue a Final Determination. *See* 65 P.S. § 67.1101(b)(1) (“Unless the requester agrees otherwise, the appeals officer shall make a final determination which shall be mailed to the requester and the agency within 30 days of receipt of the appeal filed under subsection (a).”).

⁴ As the Requester does not challenge the redaction of personal identification information, the redactions made pursuant to Section 708(b)(6)(i)(A) will not be further addressed herein. *See* Requester appeal p. 4.

Section 708(b)(10)(i)(A) of the RTKL.⁵ The Township also provided a Privilege Log (“Log”)⁶ outlining the redacted records, responsive records with fewer redactions and Message-ID and conversation/thread metadata.⁷ Further, the Township notes that records previously redacted are protected from duplication under the Copyright Act, 17 U.S.C. §§ 106, 501, and as a result, said unredacted records are now available for in-person inspection at the Township offices upon the scheduling of an appointment.⁸ In support of the Township’s position, the Township submitted two attestations made subject to the penalties of unsworn falsification to authorities, 18 Pa.C.S. § 4904, authored by Janis Rambo (“Rambo Attestation”), the Township’s Manager and Agency Open Records Officer (“AORO”),⁹ and Amanda Sundquist, Esq. (“Sundquist Attestation”), the Township’s Solicitor.

On September 28, 2026, the Requester submitted a position statement, reiterating the arguments made at the time of the appeal and seeking *in camera* review of the redacted records.¹⁰

On October 9, 2026, the Township provided a supplemental position statement and a second attestation made subject to the penalties of unsworn falsification to authorities, 18 Pa.C.S. § 4904, authored by Janis Rambo (“Rambo Second Attestation”). The Rambo Second Attestation provides correction of typographical errors contained in the Rambo Attestation.

On October 12, 2026, the Requester submitted a supplemental position statement, seeking

⁵ The Township also asserts in footnote 1 of its position statement that the Request itself is “arguably insufficiently specific.” 65 P.S. § 67.703. However, in certain situations, the ability to identify responsive records demonstrates that a request is sufficiently specific. *See Easton Area Sch. Dist. v. Baxter*, 35 A.3d 1259, 1265 (Pa. Commw. Ct. 2012). Further, the Township’s ability to perform a search for responsive records is a strong indicator that the Request is sufficiently specific, and as such, the Township’s assertion will not be further addressed herein.

⁶ *See* Township position statement, Exhibit J.

⁷ *See* Township position statement, Exhibit L.

⁸ Specifically, Bates numbered pages 7, 8, 19, 54 and 55. *See* Township position statement pp. 20-21.

⁹ *See* Township position statement, Exhibit E.

¹⁰ As the Requester is not challenging the redactions made pursuant to Sections 708(b)(5), (b)(6) and (b)(7), said redactions will not be further addressed herein. *See* Requester position statement pp. 9-10.

clarification regarding the Township's submissions and records provided in response to the Request.¹¹ Additionally, the Requester reiterates the request for *in camera* review of the redacted records.¹²

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 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)).

¹¹ Specifically, the Requester notes “[t]he question is concrete: do the responsive records document an interpretation of the controlling plans, further measurements or submissions, revised approvals, corrective work, or another disposition? Those possibilities are not accusations. They explain why access to the actual records matters and why the broad characterization of a zoning investigation does not answer every remaining withholding question. My request concerns the existing records of that process; the compliance determination itself is not the relief sought in this appeal.” Of note, under the RTKL, a request must seek records, rather than answers to questions. *Walker v. Pa. Ins. Dep’t*, No. 1485 C.D. 2011, 2012 Pa. Commw. Unpub. LEXIS 425 at *16 (Pa. Commw. Ct. 2012) (“The RTKL is not a forum for the public to demand answers to specifically posed questions to either a Commonwealth or local agency. In fact, there is no provision in the RTKL that requires an agency to respond to questions posed in a request.”); *Gingrich v. Pa. Game Comm’n*, No. 1254 C.D. 2011, 2012 Pa. Commw. Unpub. LEXIS 38 at *14 (Pa. Commw. Ct. 2012) (noting that the portion of a request “set forth as a question” did not “trigger a response”). Further, the OOR has repeatedly held that a requester may not modify, explain or expand a request on appeal. *See Pa. State Police v. Office of Open Records*, 995 A.2d 515, 516 (Pa. Commw. Ct. 2010); *Michak v. Dep’t of Pub. Welfare*, 56 A.3d 925 (Pa. Commw. Ct. 2012) (holding that “where a requestor requests a specific type of record ... the requestor may not, on appeal argue that an agency must instead disclose a different record in response to the request”).

¹² The submissions received by the OOR after September 16, 2026 were made after the close of the evidentiary record, without any request by either party for an evidentiary submission extension; however, to develop the record, the submission were considered. *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”).

While the Requester sought an *in camera* review of the redacted records, the OOR has the information and evidence before it to properly adjudicate the matter. Therefore, the request for *in camera* review is denied.

1. The Township has permitted inspection of a portion of the responsive records

The Township argues that the building permit plot plans located at Bates numbered pages 19, 7, 8, 54 and 55 are protected by copyright. The Copyright Act precludes the reproduction of any copyrighted works without the consent of the copyright holder. *See* 17 U.S.C. §§ 106, 501. Copyright protection applies automatically to any original work of authorship, including literary, dramatic, musical, architectural, cartographic, choreographic, pantomimic, pictorial, graphic, sculptural, and audiovisual creations. 17 U.S.C. § 102(a). However, copyright protection does not extend to any idea, procedure, process, system, title, principle or discovery. 17 U.S.C. § 102(b). The Township asserts that records responsive permit plot plans located at Bates numbered pages 19, 7, 8, 54 and 55 may not be duplicated and are marked as “subject to copyright,” but may be accessed by inspection at the Township building. *See* Rambo Attestation ¶¶ 31, 32, 42;¹³ *see also* Township position statement 7-10. The Township relies, in part, on *Ali v. Philadelphia City Plan. Comm’n*, 125 A.3d 92, 99–100 (Pa. Commw. Ct. 2015).

In *Ali v. Philadelphia City Planning Commission*, the Commonwealth Court held that the Copyright Act does not “exempt [] materials from disclosure under the RTKL”; instead, it “limits the level of access to a public record only with respect to duplication, not inspection.” 125 A.3d

¹³ 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, “the averments in the [attestations] 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)).

at 101-05. As in this matter, the dispute does not involve the public nature of the records, rather access to the records. In *Ali*, the Commonwealth Court further explained:

Because we lack jurisdiction under federal law to resolve the question of whether a local agency's disclosure of copyrighted material pursuant to the RTKL without the owner's consent constitutes infringement under the Copyright Act, where a local agency has refused to duplicate a public record in response to a RTKL request by invoking the Copyright Act, our review must be confined to determining whether the local agency has met its burden of proving facts sufficient to show that forced duplication of copyrighted material under the RTKL implicates rights and potential liabilities arising under the Copyright Act that can only be resolved by the federal courts.

... [W]e hold that where a local agency invokes the Copyright Act as a basis to limit access to a public record to inspection only, the absence of consent by the copyright owner to duplication in response to a RTKL request should be presumed.

125 A.3d at 104-05.

The Township has identified records that are subject to the Copyright Act. Therefore, the Township properly found that those records are subject to the Copyright Act and need only provide access to inspect those records. *See Smith v. West Chester Area Sch. Dist.*, OOR Dkt. AP 2022-1674, 2022 PA O.O.R.D. LEXIS 2123 (finding that "to the extent that any attachments or other records are subject to the Copyright Act, the agency must provide access to inspect the records"). The OOR cannot order the Township to allow the copying of copyrighted material responsive to the Request. Accordingly, the appeal is dismissed as moot with respect to the records located at Bates numbered pages 19, 7, 8, 54 and 55, as the Township has provided the Requester with an opportunity to inspect the responsive records in-person at the Township building.

2. The appeal is moot as it relates to the records containing fewer redactions and metadata information provided during the pendency of the appeal

During the appeal, the Township provided records with fewer redactions, as well as the Message-ID and conversation/thread metadata from the responsive emails. *See Township position*

statement p. 20-21, Exhibits B and C; *see also generally* Sundquist Attestation ¶¶ 10, 11. As such, the appeal as it relates to the emails with fewer redactions and the metadata information provided is dismissed as moot. *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”).

3. Some of the responsive records contain exempt noncriminal investigative materials

The Township asserts that a portion of the redacted material within the responsive records is exempt because the information relates to noncriminal investigations, which consist of investigations into potential violations of the Township’s Zoning Ordinance.¹⁴ *See* Rambo Attestation ¶¶ 28, 30-36; *see also* Rambo Second Attestation ¶¶ 2-9. Section 708(b)(17) of the RTKL exempts from disclosure records of an agency “relating to a noncriminal investigation,” including “[c]omplaints submitted to an agency,” “[i]nvestigative materials, notes, correspondence and reports” and “[a] record that, if disclosed, would ... [r]eveal the institution, progress or result of an agency investigation.” 65 P.S. §§ 67.708(b)(17)(i)-(ii); 65 P.S. § 67.708(b)(17)(vi)(A). In order for this exemption to apply, an agency must demonstrate that “a systematic or searching inquiry, a detailed examination, or an official probe” was conducted regarding a noncriminal matter. *See Pa. Dep’t of Health v. Office of Open Records*, 4 A.3d 803, 810-11 (Pa. Commw. Ct. 2010). Further, the inquiry, examination, or probe must be “conducted as part of an agency’s official duties.” *Id.* at 814; *see also Johnson v. Pa. Convention Ctr. Auth.*, 49 A.3d 920 (Pa. Commw. Ct. 2012). An official probe only applies to noncriminal investigations conducted by agencies acting within their legislatively granted fact-finding and investigative powers. *Pa. Dep’t*

¹⁴ Specifically, a potential violation of the Township’s Zoning Ordinance for townhouse staggering requirements. *See* Rambo Attestation ¶ 28.

of *Pub. Welfare v. Chawaga*, 91 A.3d 257 (Pa. Commw. Ct. 2014). The OOR must also consider uncontradicted statements in the appeal filing when construing exemptions. See *Pa. Game Comm’n v. Fennell*, 149 A.3d 101 (Pa. Commw. Ct. 2016).

In support of the Township’s position, the Rambo Attestation indicates, in relevant part, the following:

13. The Township has adopted a Zoning Ordinance.

14. The Zoning Ordinance provides for a Zoning Officer.

15. The Zoning Officer is appointed by the Township’s Board of Supervisors.

16. During the time period of the records sought as part of the Request, the Township utilized two Zoning Officers, who are sometimes referred to as Zoning Officials.¹⁵

...

28. On or about Wednesday, March 8, 202[3], a LTL employee advised me there was potentially a zoning violation with the townhouse staggering requirements found in the Township’s Zoning Ordinance for the Valley Suburban project being constructed by Ryan Homes.

...

30. On or about Thursday, March 9, 202[3], Zoning Officer Porter was contacted regarding the potential zoning violation regarding townhouse staggering requirements and asked to investigate the matter.

As further noted by the Rambo Attestation, a series of emails occurred as a result of the investigation between March 10, 2023 and March 12, 2023, detailing the investigation’s progress, impact and potential results. Rambo Attestation ¶¶ 31-33, 35. Ultimately, a final determination was made by the Township that no zoning enforcement action was required. *Id.* at ¶ 36.

¹⁵ The Township’s utilized LTL Consultants, LTD. (“LTL”), which included Paul Labe, and PE consulting Engineers, which included Herbert E. Maccombie (“Maccombie”) and David Porter. Rambo Attestation ¶¶ 17-21. Additionally, during the same timeframe, Michael Ellis of Pennoni Associates, Inc. (“Pennoni”), was the Township Engineer. *Id.* at ¶¶ 24, 25.

A Township Code Official is authorized to administer and enforce the Township's Zoning Ordinance. Township Zoning Ordinance §§ 27-701.1.A, B(3).¹⁶ The Township's authorization for the Code Official to do so is further supported by Section 10614 of the Pennsylvania Municipalities Planning Code. *See* 53 P.S. § 10614. Thus, the noncriminal investigations of potential zoning code violations are conducted pursuant to the Township's legislatively-granted powers. Additionally, the OOR has consistently held that municipalities are statutorily authorized to investigate violations of their ordinances. *See Colella v. Pocopson Twp.*, OOR Dkt. AP 2018-1472, 2018 PA O.O.R.D. LEXIS 1152 (finding that a township has the authority to conduct investigations pursuant to the Municipalities Planning Code); *see also Keating v. Jefferson Twp.*, OOR Dkt. AP 2018-1274, 2018 PA O.O.R.D. LEXIS 1000; *McConathy v. Malvern Borough*, OOR Dkt. AP 2021-1819, 2021 PA O.O.R.D. LEXIS 2189; *Westrich v. Malvern Borough*, OOR Dkt. AP 2022-0605, 2022 PA O.O.R.D. LEXIS 1327. Accordingly, based on the evidence, the Township has demonstrated that a noncriminal investigation was conducted within the meaning of the RTKL, and the responsive records as outlined in the Rambo Attestation paragraphs 31 to 33 and 35 relate to that investigation. *See* 65 P.S. § 67.708(b)(17); *see also Deeter v. Upper Southampton Twp.*, OOR Dkt. AP 2019-1697, 2019 PA O.O.R.D. LEXIS (finding that records pertaining to investigations into the violation of municipal ordinances are exempt from disclosure under Section 708(b)(17)).

Notwithstanding the above, Section 708(b)(17)(vi)(A) sets forth an exception to the exemption, requiring that records documenting “the imposition of a fine or civil penalty, the suspension, modification or revocation of a license, permit, registration, certification or similar authorization...or an executed settlement agreement...” be disclosed. *See* 65 P.S. §

¹⁶ *See* <https://ecode360.com/34336858> (last accessed by the OOR on October 23, 2026).

67.708(b)(17)(vi)(A). The Township’s evidence indicates that no zoning enforcement action was required. Rambo Attestation ¶ 36. As such, the exception to the exemption is not applicable herein. *See Hess v. Northampton County*, OOR Dkt. AP 2023-2980, 2024 PA O.O.R.D. LEXIS 93 (an agency is required to provide evidence that records do not contain the information listed in Section 708(b)(17)(vi)(A)).¹⁷

4. The Township failed to demonstrate that remaining redacted information is otherwise exempt

The Township asserts that the remaining redacted record, located at Bates numbered page 61, contains communications not subject to disclosure pursuant to the attorney-client privilege and Section 708(b)(10) of the RTKL. The RTKL excludes records subject to a privilege from the definition of “public record.” *See* 65 P.S. § 67.102. The RTKL defines “privilege” as “[t]he attorney-work-product doctrine, the attorney-client privilege, the doctor-patient privilege, the speech and debate privilege or other privilege recognized by a court interpreting the laws of this Commonwealth.” *Id.* The attorney-client privilege protects only those disclosures necessary to obtain informed legal advice, where the disclosure might not have occurred absent the privilege, and where the client’s goal is to obtain legal advice. *Joe v. Prison Health Services, Inc.*, 782 A.2d 24 (Pa. Commw. Ct. 2001). In order for the attorney-client privilege to apply, an agency must demonstrate that: 1) the asserted holder of the privilege is or sought to become a client; 2) the person to whom the communication was made is a member of the bar of a court, or his subordinate; 3) the communication relates to a fact of which the attorney was informed by his client, without the presence of strangers, for the purpose of securing either an opinion of law, legal services or

¹⁷ Because the Township has demonstrated that the records referenced in paragraphs 31 through 33 and 35 of the Rambo Attestation, except as noted in the previous section regarding the Copyright Act, contain exempt noncriminal investigative information, the OOR need not reach the Township’s alternative grounds for redacting these records. *See Jamison v. Norristown Bor. Police Dept.*, OOR Dkt. AP 2011-1233, 2011 PA O.O.R.D. LEXIS 927.

assistance in a legal matter, and not for the purpose of committing a crime or tort; and 4) the privilege has been claimed and is not waived by the client. *See Bousamra v. Excelsa Health*, 210 A.3d 967, 976 (Pa. 2019). “[A]fter an agency establishes the privilege was properly invoked under the first three prongs, the party challenging invocation of the privilege must prove waiver under the fourth prong.” *Office of the Governor v. Davis*, 122 A.3d 1185, 1192 (Pa. Commw. Ct. 2014) (citing *id.*).

In support thereof, the Township relies on the Rambo Attestation, which merely provides the following:

37. The March 22, 2023, 6:23PM email contained an attachment (Bates 61) containing my weekly report to the Board. The report included information related to a project which was in progress and remains ongoing. In the report attachment, I shared with the Supervisors my observations and comments, as well as the observations and comments of a Supervisor. These observations and comments were shared orally with the Township solicitor at the time they were made. The report attachment contains legal questions asked of the Township solicitor in regard to the project. I was relaying these communications to the Supervisors in the report. To the best of my knowledge, information and belief, the report attachment has not been circulated or shared with third parties.

While a statement made under the penalty of perjury is competent evidence to sustain an agency’s burden of proof, *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), “a generic determination or conclusory statements are not sufficient to justify the exemption of public records.” *Office of the Governor v. Scolforo*, 65 A.3d 1095, 1103 (Pa. Commw. Ct. 2013) (*en banc*); *see also Office of the Dist. Atty. of Phila. v. Bagwell*, 155 A.3d 1119, 1130 (Pa. Commw. Ct. 2017) (“Relevant and credible testimonial affidavits may provide sufficient evidence in support of a claimed exemption; however, conclusory affidavits, standing alone, will not satisfy the burden of proof an agency must sustain to show that a requester may be denied access to records under

the RTKL”) (citations omitted); *Pa. Dep’t of Educ. v. Bagwell*, 131 A.3d 638, 659 (Pa. Commw. Ct. 2016) (“Affidavits that are conclusory or merely parrot the exemption do not suffice”) (citing *Scolforo*); *West Chester Univ. of Pa. v. Schackner et al.*, 124 A.3d 382, 393 (Pa. Commw. Ct. 2015) (“The evidence must be specific enough to permit this Court to ascertain how disclosure of the entries would reflect that the records sought fall within the proffered exemptions”) (citing *Carey v. Pa. Dep’t of Corr.*, 61 A.3d 367, 375-79 (Pa. Commw. Ct. 2013)).

In this instance, the Township provided a summary to the Board of questions asked to legal counsel, but the redaction is not a communication between the Township and its legal counsel. Further, the redacted information does not contain or actually seek legal advice. Accordingly, the Township has not met its burden of proof under the RTKL and as such, the redacted material claimed to be privileged is subject to disclosure. *See Mission Pa., LLC v. McKelvey*, 212 A.3d 119, 129 (Pa. Commw. Ct. 2019), *appeal denied by* 223 A.3d 675 (Pa. 2020) (“A preponderance of the evidence may be the lowest burden of proof, but it still requires evidence unless the facts are uncontested or clear from the face of the RTKL request or the exemption”).

Further, Section 708(b)(10)(i)(A) of the RTKL exempts from public disclosure a record that reflects:

[t]he internal, predecisional deliberations of an agency, its members, employees or officials or predecisional deliberations between agency members, employees or officials and members, employees or officials of another agency, including predecisional deliberations relating to a budget recommendation, ... or course of action or any research, memos or other documents used in the predecisional deliberations.

65 P.S. § 67.708(b)(10)(i)(A). To withhold a record under Section 708(b)(10)(i)(A), an agency must show: 1) the deliberations reflected are internal to the agency, including representatives; 2) the deliberations reflected are predecisional, i.e., before a decision on an action; and 3) the contents

are deliberative in character, i.e., pertaining to a proposed action. *See Kaplin v. Lower Merion Twp.*, 19 A.3d 1209, 1214 (Pa. Commw. Ct. 2011).

To establish that records are deliberative, an agency must show that the information relates to the deliberation of a particular decision. *McGowan v. Pa. Dep't of Env'tl. Prot.*, 103 A.3d 374, 378-88 (Pa. Commw. Ct. 2014). The term "deliberation" is generally defined as "[t]he act of carefully considering issues and options before making a decision or taking some action...." BLACK'S LAW DICTIONARY 492 (9th ed. 2009); *see also Heintzelman v. Pa. Dep't of Cmty. & Econ. Dev.*, OOR Dkt. AP 2014-0061, 2014 PA O.O.R.D. LEXIS 254, *aff'd* No. 512 C.D. 2014, 2014 Pa. Commw. Unpub. LEXIS 644 (Pa. Commw. Ct. 2014). Factual material contained in otherwise deliberative documents is required to be disclosed if it is severable from its context. *McGowan*, 103 A.3d at 385-86.

Based on the evidence submitted, the information redacted under Section 708(b)(10) is not exempt from public access. While the redacted information may be internal, the Township has provided no evidence as to what Township action is being deliberative or even that the decision regarding the action is yet to be finalized. *McGowan*, 103 A.3d at 385-86.

Consequently, the information redacted on Bates numbered page 61 is subject to disclosure.

CONCLUSION

For the foregoing reasons, the appeal is **granted in part, denied in part and dismissed as moot in part**. The Township is required to provide the unredacted responsive record Bates numbered page 61 as outlined herein, 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 Chester 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.¹⁸ 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 29, 2026

/s/ Bandy L. Jarosz

BANDY L. JAROSZ, ESQ.
APPEALS OFFICER

Sent to: Daniel Carlson (via portal only)
Amanda Sundquist, Esq. (via portal only)
Janis A. Rambo (via portal only)

¹⁸ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).