pennsylvania
OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF	:	
	:	
EDWARD ROBSON and ROBSON & ROBSON, PC,	:	
Requester	:	
	:	**Docket No: AP 2026-4324**
v.	:	
	:	
PENN TOWNSHIP,	:	
Respondent	:	

FACTUAL BACKGROUND

On August 25, 2026, Edward Robson, Esq., and Robson & Robson, PC (collectively the "Requester"), submitted a request ("Request") to Penn Township ("Township") pursuant to the Right-to-Know Law ("RTKL"), 65 P.S. §§ 67.101 *et seq*., seeking records related to the assessment of equivalent dwelling units ("EDU"), the Pleasant View Projects, the implementation of the tapping fee adopted by Resolution No. 3-2022 and the assessment of 55 Doe Run Road, LLC.[1]

On September 2, 2026, the Township invoked a thirty-day extension during which to respond to the Request, 65 P.S. § 67.902(b).[2] As the Requester did not receive the Township's

[1] The Request is broken down into 24 separate Items. *See* Request.
[2] The Township's 30-day extension letter was timely issued, as the Township's business days are Monday through Thursday. *See* https://penntwplanco.org/ (last accessed by the OOR on October 22, 2026).

response by the expiration of the thirty-day extension, or by October 2, 2026, the Requester filed an appeal with the Office of Open Records ("OOR") on October 5, 2026, claiming that the Request was deemed denied. *See* 65 P.S. § 67.902(b)(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 15, 2026, the Requester submitted an affidavit, duly sworn, indicating that no further communications or records had been received by the Requester from the Township.

On October 19, 2026, the Township provided an emailed Sharesync link sent to the Requester, which contained letters responsive to the Request. Additionally, the Township provided a copy of the Township's untimely final response, issued on October 16, 2026, partially granting the Request. The Township asserts that records containing personal identification information, 65 P.S. § 67.708(b)(6)(i)(A), were withheld. The Township additionally asserts that other than the records provided, no additional responsive records exist in the Township's possession, custody or control.

On October 22, 2026, at the request of the OOR, the Township provided an attestation made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities, authored by Mark Hiester ("Hiester Attestation"), the Township's Manager and Agency Open Records Officer ("AORO"). The Hiester Attestation clarifies the Township's final response, explaining that the responsive records were provided without redaction. Additionally, the Township provided a responsive Paid Tapping Fee List ("Fee List"),[3] containing the redaction of the names of individuals who have paid tapping fees pursuant to the constitutional right to privacy,

[3] The names of individuals appear as "Customers" rather than in block redaction format. Additionally, the OOR notes that the Township has not redacted the names of businesses. *See generally* Fee List.

PA. CONS. ART. 1, § 1.[4]

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)).

1. The appeal is moot as it relates to the responsive records and the Fee List provided during the pendency of the appeal

During the appeal, the Township provided a Sharesync link and the Fee List to the Requester. *See* Hiester Attestation ¶¶ 5, 8.[5] As such, the appeal as it relates to the responsive records and list provided during the pendency of the appeal 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").

[4] While the evidentiary submission record originally closed in this appeal on October 16, 2026, the OOR extended the evidentiary submission record through October 22, 2026. *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").

[5] Under the RTKL, a sworn affidavit or statement 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 [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)).

2. The Township appropriately redacted names of individuals from the Fee List

The Township claims it withheld the full names of the individuals who have paid tapping fees pursuant to the constitutional right to privacy. The Pennsylvania Supreme Court has held that an individual possesses a constitutional right to privacy in certain types of personal information. *Pa. State Educ. Ass'n v. Commonwealth* ("*PSEA*"), 148 A.3d 142 (Pa. 2016). When a request for records implicates personal information not expressly exempt from disclosure under the RTKL, the OOR must balance the individual's interest in informational privacy with the public's interest in disclosure and may release the personal information only when the public benefit outweighs the privacy interest. *Id*.; *see also Pennsylvania State Univ. v. State Employees' Retirement Bd*., 935 A.2d 530 (Pa. 2007) (employing a balancing test with respect to home addresses sought under the former Right-to-Know Act). Although the Pennsylvania Supreme Court did not expressly define the types of "personal information" subject to the balancing test, the Court recognized that certain types of information, including the names of private citizens, implicate privacy concerns and require balancing. *Pa. State Educ. Ass'n*, 148 A.3d at 156-57; *Sapp Roofing Co. v. Sheet Metal Workers' International Assoc*., 713 A.2d 627, 630 (Pa. 1998) (plurality) (finding names, home addresses, social security numbers, and telephone numbers of private citizens to be personal information subject to the balancing test). Here, because the redactions include the names of private community members, the balancing test must be conducted.

In *Butler Area School District. v. Pennsylvania for Union Reform*, the Commonwealth Court indicated that in determining whether a party may have a privacy interest in the release of their name, the OOR must assess whether the information is traditionally public, whether an individual has a cognizable interest in the status of the records, and whether the record is personal,

such that an individual has a reasonable expectation of privacy. 172 A.3d 1173 (Pa. Commw. Ct. 2017). The *Butler* Court held that:

> ...[C]ertain factors are constant when evaluating a privacy interest in information. One is an individual's reasonable expectation that information is of a personal nature....[A] factor is how the agency obtained the information: when an individual voluntarily submits information, it may be disclosed...; whereas, information obtained by an agency premised on statutory confidentiality is protected...Also, the context holds additional significance, as does where the information is an essential component of a public record.

Id. at 1184.

The right to privacy has been applied to the names of private individuals in previous cases where the identity of the individual was submitted for the purposes of licensure, and in which there is only nominal public benefit in publication. *See Hartman v. Dep't of Conservation & Natural Res*., 892 A.2d 897 (Pa. Commw. Ct. 2006). Courts have traditionally recognized a limited personal interest in connection with a person's name alone, and names may be provided in cases where there is a more significant public interest, or where the name will not give rise to some other injury to security or reputation. *See Times Publishing Co. v. Michel*, 633 A.2d 1233, 1240 (Pa. Commw. Ct. 1993); *but see Office of General Counsel v. Bumsted*, 247 A.3d 71 (Pa. Commw. Ct. 2021) (finding that the OOR did not err when it determined that applications submitted to fill a judicial vacancy on the Commonwealth Court may not be withheld in their entirety). Only individuals in a private capacity have a right to privacy under the state constitution. *Butler Area Sch. Dist*., 172 A.3d at 1185 ("The constitutional right to informational privacy only inures to individuals").

The Requester has asserted no argument in favor of disclosure of the names withheld by the Township. Additionally, as noted by the Township, the names were redacted to protect those individuals' right to privacy which the Township has balanced against information sought by the

Request and ongoing litigation. Hiester Attestation ¶ 10. Thus, the OOR does not perceive any public interest that outweighs an individual's right to privacy in this instance. *See Manry v. Shrewsbury Borough*, OOR Dkt. AP 2019-0387, 2019 PA O.O.R.D. LEXIS 498 (stating the names of private citizens are subject to the right to privacy).[6]

3. The Township demonstrated that it performed a good faith search and additional responsive records do not exist

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).

Here, the Request seeks records related to the assessment of EDUs, the Pleasant View Projects, implementation of the tapping fee adopted by Resolution No. 3-2022 and the assessment

[6] The names of all builders, developers and corporate entities who have paid tapping fees remain in the Fee List without redaction. Hiester Attestation ¶ 9.

of 55 Doe Run Road, LLC. The Hiester Attestation indicates that the Township has not withheld any responsive records and a review of the Township's digital and physical records relating to the subject matter of the Request was conducted in order to locate responsive records. Hiester Attestation ¶¶ 11, 12. Accordingly, the Township has demonstrated that a good faith search of the Township's records was conducted. There has been no sufficient evidence provided that otherwise contradicts the statements offered by the Township in the attestation submitted. *See Pa. Dep't of Health v. Mahon*, 283 A.3d 929 (Pa. Commw. Ct. 2022). Therefore, based on the evidence provided, the Township has met its burden of proof that additional records responsive to the Request do not exist in the Township's possession, custody or control.[7] *Hodges*, 29 A.3d at 1192.

CONCLUSION

For the foregoing reasons, the appeal is **denied in part** and **dismissed as moot in part**. 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 to the Lancaster 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.

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

FINAL DETERMINATION ISSUED AND MAILED: November 3, 2026

/s/ Bandy L. Jarosz

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BANDY L. JAROSZ, ESQ.
APPEALS OFFICER

Sent via portal only to: Edward Robson, Esq.; Josele Cleary, Esq.; Mark Hiester