Pennsylvania
Office of Open Records

Pennsylvania Office of Open Records
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FINAL DETERMINATION

DATE ISSUED AND MAILED: November 5, 2026

IN RE: *Angela Smith v New Brighton Borough,* OOR Dkt. AP 2026-4460

On September 30, 2026, Angela Smith ("Requester") emailed a request ("Request") to New Brighton Borough ("Borough") pursuant to the Right-to-Know Law ("RTKL"), 65 P.S. §§ 67.101 *et seq*. seeking code enforcement records related to specific properties and individuals and records relating to grading or the placement, movement, importation, or removal of fill within Daugherty Township. The Borough did not respond within five business days of receiving the Request, and the Request was, therefore, deemed denied on October 7, 2026. 65 P.S. § 67.901. On October 8, 2026, the Requester filed an appeal with the Office of Open Records ("OOR").

Local agencies have the burden of proving that records are exempt from access. 65 P.S. § 67.708(a)(1). Here, the Borough did not comply with the RTKL by timely responding to the Request, nor did the Borough participate on appeal by submitting legal argument or evidence in support of withholding records.[1] Accordingly, the Borough did not meet its burden of proof under the RTKL. 65 P.S. § 67.305.

For this reason, the appeal is **granted**, the Borough is required to provide the requested records to the Requester within thirty days,[2] or, in the alternative, a sworn affidavit or a statement made under the penalty of perjury demonstrating that the records do not exist. Within thirty days of the mailing date of this Final Determination, either party may appeal or petition for review with the Beaver 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.[3] 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.

Issued by:

/s/ *Catherine R. Hecker*

CATHERINE R. HECKER
APPEALS OFFICER

Sent via the OOR Portal to: Angela Smith; Nicole Oliver

[1] The OOR extended the record closing date to permit the Borough to submit evidence. To date, the Borough has failed to participate in this appeal.
[2] To the extent that personal identification information that is either expressly exempt under 65 P.S. § 67.708(b)(6)(i)(A) or protected by the constitutional right to privacy is contained within any responsive records, it may be redacted by the Borough.
[3] *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).