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: *Marvin Comond v. City of Reading*, OOR Dkt. AP 2026-4490

Upon review of the appeal filed with the Office of Open Records ("OOR") to the above-referenced docket number, as well as the parties' submissions, the appeal is **DENIED** because:

**The records do not exist.** On November 3, 2026, the City of Reading ("City") submitted an attestation, made under the penalty of perjury, from Trenton Holston ("Holston Attestation"), the Municipal Operation Manager within the City Treasurer's Office, who attests that he is familiar with the record keeping practices of the City Finance and Tax Departments, where the requested records would be maintained if they exist. Holton Attestation, ¶ 2. The Holston Attestation confirms that Mr. Holton reviewed and inquired about all City files that may contain responsive records and, following his good faith search, determined that the City is not in possession of the records sought in the Request. *Id.* at ¶¶ 3-4. Additionally, Mr. Holston directed the Requester to Berks County as the governmental agency most likely to possess the records. *Id.* at ¶ 4. Based upon this evidence, and because the Requester has not submitted evidence to undermine the credibility of the Holston Attestation, the City has demonstrated that it conducted a good faith search for responsive records as required by 65 P.S. § 67.901, did not locate any; therefore, the City has met its burden of proof that it does not possess the requested records. *Hodges v. Pa. Dep't of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011); *Campbell v. Pa. Interscholastic Athletic Ass'n*, 268 A.3d 502 (Pa. Commw. Ct. 2021) (noting that 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); *see also Pa. Dep't of Health v. Mahon*, 283 A.3d 929, 936 (Pa. Commw. Ct. 2022) (concluding that, in the absence of countervailing evidence establishing that the agency acted in bad faith or that the requested records exist, averments of nonexistence should be accepted as true).

For this reason, the Office is not required to take any further action. Within thirty days of the mailing date of this Final Determination, either party may appeal or petition for review with 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. 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/ Joshua T. Young*

JOSHUA T. YOUNG, ESQ.
SENIOR DEPUTY CHIEF COUNSEL

Sent via OOR e-file portal to: Marvin Comond; Jeyda Bermudez