pennsylvania
OFFICE OF OPEN RECORDS

FINAL DETERMINATION

DATE ISSUED AND MAILED: November 5, 2026

IN RE: *Angela Smith v. New Brighton Borough,* OOR Dkt. AP 2026-4552

On September 30, 2026, Angela Smith ("Requester") submitted 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 regarding three separate properties. 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 14, 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, or, in the alternative, a sworn affidavit or a statement made under the penalty of perjury demonstrating that the records do not exist.[2] 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/ *Meryl M. Peterman*
MERYL M. PETERMAN, ESQ.
APPEALS OFFICER

Sent via portal to: Angela Smith; Nicole R. Oliver (AORO)

[1] The OOR contacted the Borough via letter on October 28, 2026, to which no response was received.
[2] To the extent the Requester is seeking records concerning Daugherty Township grading and filling, the Borough is not required to address these records as they are directed to a separate agency.
[3] *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).