pennsylvania
OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF	:	
	:	
SANDRA MILLER,	:	
Requester	:	
	:	
v.	:	**Docket No: AP 2026-4895**
	:	
BRIDGETON TOWNSHIP,	:	
Respondent	:	

FACTUAL BACKGROUND

On October 19, 2026, Sandra Miller ("Requester") submitted a request ("Request") to Bridgeton Township ("Township") pursuant to the Right-to-Know Law ("RTKL"), 65 P.S. §§ 67.101 *et seq*, seeking:

> […]
>
> 1. Prior Disclosure Incidents[.] Existing incident reports, written complaints, memoranda, or internal communications documenting allegations that [the] Township improperly disclosed, transmitted, or failed to redact residents' personal contact information, private residential plans, or other information alleged to be confidential or protected.
>
> 2. Prior Warnings Concerning Disclosure Risks[.] Existing written warnings, recommendations, audit findings, or notices received by the Board of Supervisors, Township secretary, or Agency Open Records Officer identifying deficiencies or risks involving the review, redaction, or disclosure of personal or sensitive information in Township records.
>
> 3. Decisions Concerning Identified Deficiencies[.] Existing Board meeting minutes, resolutions, memoranda, or written decisions documenting the Township's consideration, rejection, postponement, or discontinuation of

recommended privacy safeguards, redaction procedures, or corrective measures following identified disclosure concerns.

4. Prior Claims or Legal Proceedings[.] Existing notices of claim, administrative complaints, filed civil complaints, settlement agreements, or final adjudications concerning allegations that Township officials improperly disclosed residents' personal information or confidential residential records.

5. Documented Findings of Improper Disclosure[.] Existing written findings, determinations, or completed investigation reports identifying improper disclosure of personal or sensitive information by Township personnel, including any documented findings concerning inadequate review or redaction procedures.

[…]

On October 27, 2026,[1] the Township denied the Request, arguing that there are no existing responsive records to Items 1 and 2, "other than the email sent by the [Requester] on February 5, 2026 @ 9:38 AM[,]" that there are no records responsive to Items 3 and 4, and that there are no existing records to Item 5, "other than scanned documents concerning incidences where phone numbers were not redacted as sent to the [Requester] on October 8, 2026 in response to her [] request dated 9/25/26."[2]

On October 29, 2026, the Requester appealed to the Office of Open Records ("OOR"), challenging the denial, stating grounds for disclosure and asking the OOR to issue a finding of bad faith against the Township. *See* Requester's appeal, pp. 4-14. 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 November 11, 2026, the Township submitted a position statement,[3] providing

[1] The Township's business days are Mondays and Fridays.
[2] The Township also states that "[n]o records were created to respond to this [R]equest [and n]o records were withheld to respond to this [Request]."
[3] The Township's position statement was made subject to the penalties set forth in 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

responsive records previously produced (i.e. the Requester's February 5, 2026 email, email correspondence sent to the Requester, and documents furnished to her on October 8, 2026 in response to a prior request), and arguing that the "appeal seeks records the Request did not ask for[, and] that no other responsive records exist." In addition, the Township submitted Exhibits A-G. *See* Exhibits A-G.

On November 11, 2026, the Requester submitted a position statement, arguing, among other things, that "[t]he Township's submission is materially deficient [because i]t relies upon an unjustifiably narrow interpretation of the [R]equest, attempts to excuse the omission of subsequently produced records, and presents a purportedly comprehensive search that fails to establish meaningful inquiries of several Township officials directly involved in the underlying disclosure controversy."

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). Based upon my review of the appeal and the evidence, I make the following conclusions of law and findings of fact:

- The appeal is moot in part. During the pendency of the appeal, the Township provided responsive records. *See* Township's position statement, p. 3; *see also* Exhibits "C-E".[4]

[4] These records include the Requester's own emails, "including her February 5, 2026 email; the documents sent to her on October 8, 2026; and the Chairman's replies to her emails."

As such, the appeal is dismissed as moot as it relates to the records provided on appeal. *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").

- A request cannot be expanded on appeal. The Township argues that the Requester may not use the appeal to expand her Request. Specifically, the Township argues that the Request is limited to the five categories sought in the Request.[5] A requester may not modify 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. Pa. 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 disclosure a different record in response to the request"). Therefore, the OOR's review on appeal is confined to the Request as written, and any modification or explanation of the Request on appeal will not be considered. As such, insofar as the Requester is seeking additional records, the Request cannot be expanded on appeal, and the OOR's review will be confined to the language of the original Request. *Id.*
- The Township conducted a good faith search, provided responsive records on appeal, and demonstrated that additional responsive records are not in its possession, custody or control. 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 identified record[.]" While the RTKL does not define the term "good faith effort," the

[5] The Township further notes that "[t]he Coltar records are already the subject of a pending request" and that the Township has now provided the Chairman's correspondence. *See* Exhibit E.

Commonwealth Court stated, in part, that "the open records officer has a duty to advise all custodians of potentially responsive records about the request." *See Uniontown Newspapers, Inc., v. Pa. Dep't of Corr.,* 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. S*ee Burr v. Pa. Dep't of Health*, OOR Dkt. AP 2021-0747, 2021 PA O.O.R.D. LEXIS 750. In *Pa. Dep't of Health v. Mahon*, the Commonwealth Court discussed the evidence required to establish the absence of records, quoting its previous decision in *Hodges*, which holds that an agency "may satisfy its burden of proof...with either an unsworn attestation by the person who searched for the record or a sworn affidavit of nonexistence of the record." *Mahon*, 283 A.3d 929, 936 (Pa. Commw. Ct. 2022) (quoting *Hodges*, 29 A.3d at 1192); s*ee Moore v. Off. of Open Recs.*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010) (search of records and affidavit that documents are not in agency's possession are enough to satisfy burden of demonstrating nonexistence). Here, the Township's verified position statement,[6] authored by Sheryl Patterson, the Township's Open Records Officer ("AORO"), asserts that after receiving the Request, she contacted Chairman Gard Holby and asked him whether he had any records responsive to the Request. Township's position

[6] Under the RTKL, a sworn affidavit or statement made under 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. Off. 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 or that additional records exist, "the averments in [the position statement] should be accepted as true." *McGowan v. Pa. Dep't of Env't Prot.*, 103 A.3d 374, 382-83 (Pa. Commw. Ct. 2014) (citing *Off. of the Governor v. Scolforo*, 65 A.3d 1095, 1103 (Pa. Commw. Ct. 2013)).

statement, p. 6. Chairman Holby responded that he did not have any responsive records. *Id.* Further, Ms. Patterson "searched the Township's email records, RTKL files, Board minutes and resolutions, correspondence files, and audit records for the period covered by the Request, using terms designed to locate records concerning privacy, redaction, and the disclosure of personal information." *Id.* Thus, based on this search, the Township asserts that it "has no other records responsive to the Request in its possession, custody or control." *Id.* at p. 7. Therefore, based on this evidence, the Township has met its burden, by a preponderance of the evidence, that it conducted a good faith search, provided responsive records, and demonstrated that additional responsive records are not in its possession, custody or control.

- The OOR declines to make a finding of bad faith. The Requester asks the OOR to make a finding of bad faith against the Township. While the OOR may make a finding of bad faith, only a court may impose related penalties. *See* 65 P.S. §§ 67.1304(a), 1305. Under the RTKL, a finding of bad faith may be appropriate where an agency refuses to comply with its statutory duties. *See Uniontown Newspapers, Inc. v. Pa. Dep't of Corr.*, 185 A.3d 1161, 1171-74 (Pa. Commw. Ct. 2018), *aff'd*, 243 A.3d 19 (Pa. 2020) (bad faith involves failing to perform a good faith search and review of records to ascertain if the requested material exists or if any exclusion applies prior to denial of access); *see also Off. of the Dist. Att'y. of Phila. v. Bagwell*, 155 A.3d 1119, 1140-41 (Pa. Commw. Ct. 2017) (a finding of bad faith was warranted where the agency based a denial on the identity of the requester, refused to provide a legal rationale for denial and did not perform a good faith search). However, such a finding is typically reserved only for an egregious or blatant violation of the RTKL. Here, the

Township timely responded to the Request, provided responsive records, and has fully participated on appeal. The instant appeal record does not reflect that the Township refused to comply with its statutory duties under the RTKL. Accordingly, the OOR declines to make a finding of bad faith in this matter.

CONCLUSION

For the foregoing reasons, the appeal is **denied in part** and **dismissed as moot in part**, and 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 Bucks 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. 65 P.S. § 67.1303. 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.[7] 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: November 25, 2026

/s/ Lyle Hartranft

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LYLE HARTRANFT, ESQ.
APPEALS OFFICER

Sent via e-file portal to: Sandra Miller; Sheryl Patterson, AORO

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