



**FINAL DETERMINATION**

**IN THE MATTER OF**

**STEVE VOLK,  
Requester**

**v.**

**DAUPHIN COUNTY,  
Respondent**

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**Docket No.: AP 2021-0646**

The Office of Open Records (“OOR”) received the above-captioned appeal under the Right-to-Know Law, 65 P.S. §§ 67.101 *et seq.*, (“RTKL”). Upon review of the file, the appeal is dismissed for the following reason:

On January 29, 2021, Steve Volk (“Requester”), on behalf of Resolve Philly, filed a RTKL request (“Request”) with Dauphin County (“County”). Section 901 of the RTKL states that “[t]he time for response shall not exceed five business days from the date the written request is received by the open-records officer for an agency.” 65 P.S. § 67.901; *see also Commonwealth v. Donahue*, 98 A.3d 1223 (Pa. Commw. Ct. 2014). On February 9, 2021, the County sent an email giving notice that it was extending the response period for thirty days pursuant to 65 P.S. § 67.902(a).<sup>1</sup>

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<sup>1</sup> While a requester is ultimately responsible to file a timely appeal, agencies also have an obligation to timely respond to requests under the RTKL and provide accurate procedural information. The OOR reminds agency open-records officers that they are responsible for “track[ing] the agency’s progress in responding to requests.” 65 P.S. 67.506(b)(1).”

However, Section 902(b) of the RTKL requires that “the open-records officer shall send written notice to the requester within five business days of receipt of the request for access.” 65 P.S. § 67.902(b). The County’s notice to extend the response period was sent more than five business days of receiving the Request; therefore, the Request was deemed denied on February 5, 2021. On March 26, 2021, the Requester filed an appeal with the OOR, asserting grounds for disclosure.

As stated above, the Request was deemed denied on February 5, 2021. As such, the Requester had fifteen business days from that date, or until March 1, 2021, to file an appeal. *See* 65 P.S. § 67.1101(a)(1). Because the OOR received the appeal on March 26, 2021, the appeal is dismissed as untimely, and the County is not required to take any further action.<sup>2</sup> This does not preclude the Requester from filing a new request.

The file is now closed and no further action will be taken. This Final Determination is binding on the parties. Within thirty days of the mailing date of this determination, either party may appeal to the Dauphin County Court of Common Pleas. *See* 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 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.<sup>3</sup> This Final Determination shall be placed on the OOR website at:

<http://openrecords.pa.gov>.

**FINAL DETERMINATION ISSUED AND MAILED: May 4, 2021**

*/s/ Jill S. Wolfe*

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APPEALS OFFICER  
JILL S. WOLFE, ESQ.

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<sup>2</sup> On appeal, the Requester indicates that it provided the responsive records to the Requester on March 5, 2021.

<sup>3</sup> *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).

Sent via email to: Steve Volk;  
J. Scott Burford