

FINAL DETERMINATION

DATE ISSUED AND MAILED: June 10, 2021

IN RE: *Carlie Whalen v. Bensalem Township*, OOR Dkt. AP 2021-1138

Upon review of the appeal filed with the Office of Open Records (“OOR”) to the above-referenced docket number, it is determined that the appeal is **DISMISSED** because:

The appeal is premature. The appeal states that the Request was submitted on June 9, 2021 and does not indicate that the Township issued a response.¹ The Township has five (5) business days upon receipt, or until June 16, 2021, to respond to the Request. 65 P.S. § 67.901. The appeal was filed on June 9, 2021. The Requester is not prohibited from filing a new appeal of any denial or deemed denial stemming from the Request, pursuant to the requirements of 65 P.S. § 67.1101(a)(1).

For this reason, the Township is not required to take any further action. Within thirty days of the mailing date of this Final Determination, you may appeal or petition for review with the Montgomery 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. 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.²

Issued by:

/s/ Kyle Applegate

Chief Counsel
Kyle Applegate, Esq.

Sent to: Requester, Agency

¹ It is unclear if a request for records was ever submitted to the Township, as the appeal references a denial of benefits rather than a Right-to-Know Law request. Under the Right-to-Know Law, requests must seek records. 65 P.S. § 67.703.

² *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).