



**FINAL DETERMINATION**

<b>IN THE MATTER OF</b>	:	
	:	
<b>MICHAEL SIMMONDS AND</b>	:	
<b>LOCAL UNION 126, IBEW,</b>	:	
<b>Requester</b>	:	
	:	
<b>v.</b>	:	<b>Docket No.: AP 2021-0981</b>
	:	<b>(Consolidated)</b>
	:	
<b>MUHLENBERG TOWNSHIP,</b>	:	
<b>Respondent</b>	:	

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

On April 28, 2021, Michael Simmonds and Local Union 126, IBEW, (collectively the “Requester”) submitted a request (“Request One”) to Muhlenberg Township (“Township”) pursuant to the RTKL, seeking, among other things, “invoices submitted between 1/1/2020 – 4/28/2021 by Telco, Inc.” On April 30, 2021 the Township partially granted Request One, providing certain responsive records. After a further exchange of emails with Joel Capellupo, the Township’s Open Records Officer, the Requester submitted a second RTKL request (“Request Two”) on May 12, 2021 to the Township. Request Two sought “copies of all invoices submitted

by Telco, Inc. from 1/1/2019 to the present.” On May 18, 2021, the Township granted access to 170 invoices in hard copy format.

On May 20, 2021, the Requester filed two separate appeals with the OOR, challenging the Township’s responses to his Requests. *See* 65 P.S. § 67.901. The appeals were docketed at OOR Dkt. AP 2021-0981 and OOR Dkt. AP 2021-0982. Because the appeals involve the same agency and requester, the appeals are consolidated into OOR Dkt. AP 2021-0981. *See* 65 § 67.1102(b)(3) (stating that “the appeals officer shall rule on procedural matters on the basis of justice, fairness and the expeditious resolution of the dispute”).

During the course of this appeal, the Requester argued that the Township, although providing certain records initially, failed to provide an invoice for work performed by Telco, Inc. at 5th and George Streets in March 2021. On June 4, 2021, Mr. Capellupo advised the OOR that the Township had provided all records responsive to the Requests, and that, at that point in time, the Township had not yet received the invoice sought by the Requester. After additional correspondence and efforts, the Township, on June 14, 2021, submitted a copy of Telco, Inc.’s Invoice No. 31636, dated May 25, 2021, for work performed at “Fifth and George Streets.” The OOR subsequently reached out to the Requester, inquiring whether the provision of that record satisfied the instant appeal. On June 15, 2021, the Requester responded that his appeal had been satisfied.<sup>1</sup> Because the Requester has confirmed that his appeal has now been satisfied, it is **dismissed as moot**.

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 Final Determination, either party may appeal to the Berks County Court of Common Pleas. *See* 65 P.S. § 67.1302(a). All

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<sup>1</sup> The OOR subsequently asked the Requester if it might consider his June 15, 2021 email as a withdrawal of his appeal. However, the Requester never responded.

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>2</sup> This Final Determination shall be placed on the OOR website at: <http://openrecords.pa.gov>.

**FINAL DETERMINATION ISSUED AND MAILED: June 17, 2021**

*/s/ Angela Edris*

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APPEALS OFFICER  
ANGELA EDRIS, ESQ.

Sent via email to: Michael Simmonds;  
Joel Capellupo, AORO

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