



pennsylvania
OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF	:	
	:	
JAMES PETUSKY,	:	
Requester	:	
	:	
v.	:	Docket No.: AP 2021-1317
	:	
GIRARDVILLE AREA MUNICIPAL	:	
AUTHORITY,	:	
Respondent	:	

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.* Upon review of the file, the appeal is **dismissed** for the following reason:

On June 21, 2021, James Petusky (“Requester”) mailed a RTKL request (“Request”) to the Girardville Area Municipal Authority (“Authority”), seeking insurance, payroll and time records for two individuals. Having received no response from the Authority, the Requester filed an appeal with the Office of Open Records (“OOR”) on July 7, 2021, alleging the Request was deemed denied. *See* 65 P.S. § 67.901. The OOR invited both parties to supplement the record and directed the Authority to notify any third parties of their ability to participate in this appeal. 65 P.S. § 67.1101(c).

On July 27, 2021, the Authority submitted a position statement, asserting that its Open Records Officer first received the Request on June 30, 2021, when she returned from vacation,¹ and, pursuant to Section 902 of the RTKL, invoked a thirty-day extension of time to respond to the Request on July 1, 2021. 65 P.S. § 67.902(b). The Authority also provided a copy of the extension notice dated July 1, 2021,² and noted that the Authority is currently processing the Request and will issue a final response by August 1, 2021. Because the Authority's Open Records Officer did not receive the Request until June 30, 2021, and she properly invoked an extension on July 1, 2021, the appeal is **dismissed as premature**. Upon receiving a final response from the Authority or the Request being deemed denied, the Requester may file a new appeal with the OOR pursuant to the requirements of 65 P.S. § 67.1101(a).

For the foregoing reason, the Authority 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 Schuylkill 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 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

¹ The Authority explained that its Open Records Officer was on vacation when the Request was initially filed; however, the Authority further noted that a representative of the Authority contacted the Requester to inform him of the Open Records Officer's absence. A copy of the representative's email correspondence to the Requester was included with the Authority's position statement.

² On July 28, 2021, the Requester submitted email correspondence stating that he never received a copy of the Authority's extension notice. Regardless, the Authority has submitted documentation to demonstrate that a valid extension was taken on July 1, 2021. However, even when accepting the Requester's statement as true, the Requester was notified that the Authority's Open Records Officer was on vacation until June 30, 2021 and would process his Request upon her return to the office. Without the extension, the Authority would have had five business days from June 30, 2021, or until July 8, 2021, to process the Request and issue a response. *See* 65 P.S. § 67.901. The Requester filed his appeal with the OOR on July 7, 2021.

not be named as a party.³ This Final Determination shall be placed on the website at:
<http://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: 29 July 2021

/s/ Joshua T. Young

JOSHUA T. YOUNG
DEPUTY CHIEF COUNSEL

Sent to: James Petusky (via email only);
James Amato, Esq. (via email only);
Kathleen Jones, AORO (via email only)

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