



FINAL DETERMINATION

IN THE MATTER OF

**THOMAS CASEY AND FAMOUS, LLC,
Requester**

v.

**LAWRENCE COUNTY,
Respondent**

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**Docket No: AP 2021-1942
(CONSOLIDATED)**

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 September 1, 2021, Thomas Casey and Famous, LLC (collectively, “Requester”) sent two requests¹ (collectively, the “Request”) to Lawrence County (“County”), seeking the amount charged on a demolition project at parcel 06033200 and the identification of who performed the demolition. The County did not respond, and on September 13, 2021, the Requester appealed to the OOR.² On appeal, the Requester granted the OOR an additional thirty days to issue its Final Determination. *See* 65 P.S. § 67.1101(b)(1). The OOR invited both parties to supplement the

¹ The requests are identical.

² The Requester filed two notices of appeals with the OOR docketed at OOR Dkt. 2021-1942 and OOR Dkt. 2021-1943. Because dockets request the same information and the County filed identical affidavits, the appeals are hereby consolidated at OOR Dkt. AP 2021-1942. *See* 65 P.S. § 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”).

record and directed the County to notify any third parties of their ability to participate in the appeal. *See* 65 P.S. § 67.1101(c).

On September 24, 2021, the County submitted two affidavits attesting that it did not receive the Request prior to the filing of this appeal. The County submitted the affidavit of Kristine Venasco, Officer Manager, Lawrence County Commissioner's Office, who attests that she "[does] not recall receiving this form at the Commissioner's office, nor did anyone bring me this form as having received it in my absence." Likewise, Carolyn Flannery-Lang, Assistant County Solicitor and Right-to-Know Officer for Lawrence County, attests that "[t]hrough this appeal, I saw for the first time a request by Thomas Casey."³

Under the RTKL, a sworn affidavit or statement made under the 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. Office of Open Records*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010). Ms. Venasco and Ms. Flannery-Lang attest that the Request was not received by anyone in the County's Open Records Office prior to the filing of the appeal. Because the County's Open Records Office did not receive the Request prior to the filing of this appeal, the appeal is **dismissed as premature**. However, nothing in this Final Determination prevents the Requester from refiling his Request and appealing any resulting denial pursuant to the requirements of 65 P.S. § 67.1101(a).

For the foregoing reasons, the County 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 Lawrence 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

³ Ms. Flannery-Lang also attests that she went to her office on September 9, 2021, to retrieve items in her inbox and the Request was not among the items retrieved on September 9, 2021.

notice and have an opportunity to respond 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.⁴ This Final Determination shall be placed on the OOR website at: <http://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: October 22, 2021

/s/ Lyle Hartranft
Lyle Hartranft, Esq.
Appeals Officer

Sent via email to: Thomas Casey (via email only);
Carolyn Flannery-Lang, Esq., AORO (via email only)

⁴ See *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).