

FINAL DETERMINATION

DATE ISSUED AND MAILED: December 29, 2021

IN RE: *Marc Zaid v. Upland Borough*, OOR Dkt. AP 2021-2961

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 Request was submitted to the Borough’s Open Records Officer on December 20, 2021. The Borough had five (5) business days to respond, or until December 29, 2021 in this instance.¹ 65 P.S. § 67.901. The appeal was submitted on December 27, 2021. The Requester is not prohibited from filing a new appeal to the OOR 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 Borough 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 Delaware 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/ Joshua Young

Deputy Chief Counsel
Joshua Young

Sent to: Marc Zaid, Esq.; Agency Open Records Officer

¹ According to the calendar posted on the Borough’s website, the Borough’s offices were closed on December 24, 2021 and December 27, 2021 in observance of the Christmas holiday. See <https://www.uplandboro.org/calendar> (last accessed December 29, 2021).

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