

**FINAL DETERMINATION**

DATE ISSUED AND MAILED: January 14, 2022

IN RE: *Sally Hogan/Americans For Fair Treatment v. Southampton Township*, OOR Dkt. AP 2021-2459

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 AS PREMATURE** because:

The Requester appealed to the OOR, challenging the deemed denial of a request (“Request”) filed on October 22, 2021, with Southampton Township (“Township”), seeking records of collective bargaining agreements, bargaining units, and memoranda of understanding. On December 16, 2021, the Township provided the OOR with the verification of Christine McKenzie, the Township’s Open Records Officer, who attests that the Township did not receive a copy of the Request prior to the appeal’s filing. 65 P.S. § 67.902(b)(2); McKenzie Attest., ¶¶ 4-6. *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).<sup>1</sup> Because an appeal may only be filed from the denial or deemed denial of a request, and the Township did not receive the Request prior to receiving the appeal, the appeal must be dismissed as premature. 65 P.S. § 67.901. The Requester is not prohibited from filing a new request and, if necessary, an appeal to the OOR, 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, either party may file an appeal or petition for review with the Cumberland 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.<sup>2</sup>

Issued by:

*/s/ Jordan C. Davis*

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APPEALS OFFICER  
JORDAN C. DAVIS

Sent to: Sally Hogan, Christine McKenzie

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<sup>1</sup> On December 17, 2021, the Requester attached a copy of the email sent; however, the OOR notes that it was not addressed to the email the Township has used to respond to the appeal, but a separate account.

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