

**FINAL DETERMINATION**

DATE ISSUED AND MAILED: May 18, 2022

IN RE: *Blake Marles v. Macungie Borough*, OOR Dkt. AP 2022-1184

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 April 12, 2022. The Borough timely invoked a thirty-day extension on April 19, 2022. 65 P.S. § 67.902(b)(1). Under the extension, the Borough has five (5) business days, followed by thirty (30) calendar days, from April 12, 2022 to respond to the Request. 65 P.S. §§ 67.902(b)(1)-(2). As a result, the Borough has until May 19, 2022 to respond to the Request. The appeal was submitted to the OOR on May 17, 2022. 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 Lehigh 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>1</sup>

Issued by:

/s/ Kyle Applegate

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Chief Counsel  
Kyle Applegate, Esq.

Sent to: Requester (via email), Agency Open Records Officer (via email)

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<sup>1</sup> *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).