



pennsylvania

OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF

**PAT IMPERATORE,
Requester**

v.

**RIDLEY PARK BOROUGH,
Respondent**

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Docket No.: AP 2024-0585

On February 13, 2024, Pat Imperatore (“Requester”) submitted a request (“Request”) to Ridley Park Borough (“Borough”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking:

1. Copies of all Writs of Scire Facias submitted and/or executed by Portnoff Law Associates, Ltd., in pursuit of delinquent tax collection at the request and on behalf of Ridley Park Borough spanning the period from January, 2014 through December, 2022.
2. A duplicate of the currently signed agreement between Portnoff Law Associates, Ltd., the designated third party, and Ridley Park Borough. This contract pertains to the authorized collection of delinquent taxes within the defined geographical confines of Ridley Park Borough

On February 14, 2024, the Borough partially denied the Request, providing a list of docket numbers and noting that the requested writs of scire facias could be obtained using the docket numbers on the Delaware County Court of Common Pleas’ publicly available website. The Borough’s response did not address Item 2 of the Request.

On February 29, 2024, the Requester filed an appeal with the Office of Open Records (“OOR”), challenging the denial and stating grounds for disclosure.¹ The OOR invited both parties to supplement the record and directed the Borough to notify any third parties of their ability to participate in this appeal. 65 P.S. § 67.1101(c).

On March 12, 2024, the Borough submitted the notarized affidavit of Richard Tutak (“Tutak Affidavit”), the Borough’s Manager and Open Records Officer, indicating that “[f]ollowing receipt of the notice of appeal, I obtained copies of all ... 165 copies of the writs of scire facias along with a copy of the current agreement[,]” which “have been provided to [the] Request[e]r via email....” Tutak Affidavit, ¶¶ 11-12.

On March 13, 2024, the Requester made a submission, stating, in part, that the Borough “simply needs to upload the 175 WSF (zip file) to either this portal and/or to” the email address provided.

On March 22, 2024, the Borough made a submission, asserting that “on March 14, 2024, [the Borough] created a link to the documents and emailed that link to [the Requester] at both email addresses that she uses.”

On March 26, 2024, in response to the OOR’s request for additional evidence, the Borough submitted the supplemental affidavit of Richard Tutak (“Tutak Supplemental Affidavit”), which provides that “on March 12, 2024, I emailed the Requester asking for confirmation that she received the emails. She responded that she had, which I understood to mean she had received the documents.” Tutak Supplemental Affidavit, ¶ 14. The Borough also submitted the notarized

¹ By OOR Order issued March 1, 2024, the Requester was required to file a complete copy of the Borough’s response within seven days of the date of the Order. On March 4, 2024, the OOR received a copy of the Borough’s response from the Requester.

affidavit of Jennifer Pastalone (“Pastalone Affidavit”), a paralegal with the Borough’s Solicitor, who affirms that “[o]n March 14, 2024, I created a dropbox link for all of the files obtained by the Borough of Ridley Park, approximately 165, to provide to [the Requester,]” and that on the same day, “I emailed the link to the dropbox to [the Requester] at both of her email addresses.” Pastalone Affidavit, ¶¶ 2-3. The Pastalone Affidavit further affirms that “[o]n the same date, [the Requester] responded to me, indicating she received the dropbox link.” *Id.* at ¶ 4.

On March 26, 2024, the Requester made a submission, indicating, in part, that the “Affidavit provided by Jennifer Pastalone is 100% correct and accurate.”

Here, based on the evidence provided, the Borough has provided the responsive records to the Requester. The Requester has not submitted any evidence to the contrary. *See Pa. Dep’t of Health v. Mahon*, 283 A.3d 929 (Pa. Commw. Ct. 2022). Therefore, the appeal is moot. *See Kutztown Univ. of Pa. v. Bollinger*, 217 A.3d 931 (Pa. Commw. Ct. 2019) (holding that an appeal is properly dismissed as moot where no controversy remains).

For the foregoing reasons, the appeal is **dismissed as moot**, and the Borough 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 or petition for review to 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 Section 1303 of the RTKL. 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 All documents or communications following the issuance of this Final

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

Determination shall be sent to oor-postfd@pa.gov. This Final Determination shall be placed on the website at: <http://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: March 28, 2024

/s/ Magdalene C. Zeppos-Brown
MAGDALENE C. ZEPPOS-BROWN, ESQ.
DEPUTY CHIEF COUNSEL

Sent via OOR e-file portal to: Pat Imperatore;
Katherine Meehan, Esq.; and
Richard Tutak, AORO