



FINAL DETERMINATION

IN THE MATTER OF

**MICHELLE GROVE,
Requester**

v.

**GREGG TOWNSHIP,
Respondent**

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Docket No.: AP 2018-1288

On June 8, 2018, Michelle Grove (“Requester”) submitted a request (“Request”) to Gregg Township (“Township”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking surveillance video, a police report and emails and text messages regarding a campaign sign being vandalized. The Township did not respond within five business days, and the Request was, therefore, deemed denied on June 15, 2018.¹ *See* 65 P.S. § 67.901 (stating that “[t]he time for response shall not exceed five business days from the date the written request is received by the open-records officer for an agency”); *see also Commonwealth v. Donahue*, 98 A.3d 1223 (Pa. Commw. Ct. 2014).

¹ On June 18, 2018, the sixth business day, the Township invoked a thirty-day extension of time to respond to the Request. *See* 65 P.S. § 67.902(b). On July 16, 2018, the Township denied the Request, asserting that the release of the requested surveillance footage, would among other things, threaten public safety. *See* 65 P.S. § 67.708(b)(2). The Township denied the Request for a police report and emails and text messages, asserting that the records are related to a noncriminal and criminal investigations. *See* 65 P.S. §§ 67.708(b)(16)-(17).

On July 18, 2018, the Requester appealed to the OOR, challenging the denial and stating grounds for disclosure. On July 27, 2018, the Township submitted the sworn attestation of Jennifer Snyder, Open Records Officer for the Township, who attests that she received the Request on June 8, 2018. Section 1101(a)(1) of the RTKL states that a requester may appeal to the OOR “within 15 business days of the mailing date of the agency’s response or within 15 business days of a deemed denial.” 65 P.S. § 67.1101(a)(1). Pursuant to Section 1101(a)(1), the Requester was required to file the appeal within fifteen business days of the date that Request was deemed denied, or by July 9, 2018. Because the OOR received the appeal on July 18, 2018, the appeal is **dismissed as untimely**, and the Township is not required to take any further action.

The file is now closed and no further action will be taken. 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 Centre 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. 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 This Final Determination shall be placed on the OOR website at: <http://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: August 13, 2018

/s/ Kathleen A. Higgins

KATHLEEN A. HIGGINS, ESQ.
APPEALS OFFICER

Sent to: Michelle Grove (via email only);
Jennifer Snyder (via email only);
David Gaines, Esq. (via email only)

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