



**pennsylvania**  
OFFICE OF OPEN RECORDS

**FINAL DETERMINATION**

<b>IN THE MATTER OF</b>	:	
	:	
<b>JOHN SEITZ,</b>	:	
<b>Requester</b>	:	
	:	
<b>v.</b>	:	<b>Docket No.: AP 2016-1668</b>
	:	
	:	
<b>EAST NOTTINGHAM TOWNSHIP,</b>	:	
<b>Respondent</b>	:	

The Office of Open Records (“OOR”) received the above-captioned appeal under the Right-to-Know Law, 65 P.S. §§ 67.101 *et seq.*, (“RTKL”). Upon review of the file, the appeal is dismissed for the following reason:

On August 2, 2016, John Seitz (“Requester”) filed a RTKL request (“First Request”) with East Nottingham Township (“Township”). On August 9, 2016, the Township invoked a thirty day extension to respond to the First Request pursuant to 65 P.S. § 67.902(a). The Township failed to respond within thirty days, and the First Request was, therefore, deemed denied on September 8, 2016. *See* 65 P.S. § 67.902(b).

On August 24, 2016, the Requester submitted a second request (“Second Request”) to the Township purporting to amend the First Request. Section 901 of the RTKL states 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.” 65 P.S. § 67.901; *see also Commonwealth v. Donahue*, 98 A.3d 1223 (Pa. Commw. Ct. 2014). The Township failed to respond within five business days, and the Second Request was, therefore, deemed denied on August 31, 2016.<sup>1</sup> *See* 65 P.S. § 67.901. The Requester appealed the denial of the Requests to the OOR on October 3, 2016.

Pursuant to 65 P.S. § 67.1101(a)(1), an appeal must be filed within fifteen business days of the date upon which a request is denied or deemed denied. Here, the First Request should have been appealed no later than September 29, 2016, and the Second Request should have been appealed no later than September 21, 2016. Because the OOR received the appeal on October 3,

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<sup>1</sup> Although both Requests were deemed denied, the Township sent an untimely response to both Requests on September 27, 2016.

2016, 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 the parties. Within thirty days of the mailing date of this determination, either party may appeal to the Chester County Court of Common Pleas. *See* 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.<sup>2</sup> This Final Determination shall be placed on the OOR website at: <http://openrecords.pa.gov>.

**FINAL DETERMINATION ISSUED AND MAILED: October 25, 2016**

/s/ Jill S. Wolfe

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APPEALS OFFICER  
JILL S. WOLFE, ESQ.

Sent to: John Sietz (via e-mail only);  
Winifred Moran Sebastian, Esq. (via e-mail only);  
Pat Brady (via e-mail only)

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