



pennsylvania

OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF

**JOSEPH CAP,
Requester**

v.

**LEHIGH & NORTHAMPTON
TRANSPORTATION AUTHORITY,
Respondent**

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**Docket Nos.: AP 2017-0710, -0716, -0719
-0729, -0730, -0732, -0733, -0734 & -0735
(Consolidated)**

On March 23, 2017, Joseph Cap (“Requester”) submitted nine requests (“Requests”) to the Lehigh & Northampton Transportation Authority (“Authority”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking to inspect audio/video recordings of different departures from specified locations and for specified times. The Requester states that he received eight letters involving thirty-day extensions of time from the Authority, 65 P.S. § 67.902(b), and alleges that one of his Requests was consequently deemed denied.¹ *See* 65 P.S. § 67.901. On April 14, 2017, Requester appealed to the Office of Open Records (“OOR”).

Upon review of the appeals filed with the OOR, the appeals are **dismissed as premature**. All nine Requests were dated March 23, 2017. The Authority timely invoked extensions on either March 24, 2017 or March 28, 2017. *See* 65 P.S. § 67.902(b)(1). Further, the extension

¹ The Authority’s extension notices do not quote or otherwise reference which individual Request they pertain to.

notices explain the basis for the extensions. 65 P.S. § 67.902(b)(2). While the Requester claims that the Authority did not invoke an extension as to one of his Requests, the Authority's extension notices, when viewed together, invoke extensions of time for the Requests submitted by the Requester on March 23, 2017. As a result, the Authority has 5 business days and 30 calendar days to issue a final response, or until May 1, 2017. The OOR allows three extra days for an agency to mail a response pursuant to Section IV(C)(5)(b)(i) of the OOR Procedural Guidelines. The appeals may be refiled, if necessary, after receiving the Authority's final response(s) or 11:59:59 p.m. of May 4, 2017, whichever comes first.

Within thirty days of the mailing date of this Final Determination, you may appeal or petition for review to 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 Section 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 This Final Determination shall be placed on the OOR website at: <http://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: April 19, 2017

/s/ Kyle Applegate

Appeals Officer
Kyle Applegate

Sent to: Requester, Open Records Officer

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