



**pennsylvania**  
OFFICE OF OPEN RECORDS

**FINAL DETERMINATION**

<b>IN THE MATTER OF</b>	:	
	:	
<b>CHASE SPRING,</b>	:	
<b>Requester</b>	:	
	:	
<b>v.</b>	:	<b>Docket No.: AP 2017-2058</b>
	:	
<b>SOUTHEASTERN PENNSYLVANIA</b>	:	
<b>TRANSPORTATION AUTHORITY,</b>	:	
<b>Respondent</b>	:	

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

On October 25, 2017, Chase Spring (“Requester”) submitted a RTKL request (“Request”) to Southeastern Pennsylvania Transportation Authority (“SEPTA”), seeking surveillance video footage, radio dispatch and response time logs of Glenside Train Station on October 20, 2017. The Requester originally appealed the Request to the OOR on November 3, 2017, claiming that the Request was deemed denied. On November 6, 2017, the OOR dismissed the appeal as premature.<sup>1</sup> On the same day, November 6, 2017, the Requester submitted another appeal to the OOR, alleging that the Request was deemed denied. *See* 65 P.S. § 67.901. The OOR invited both parties to

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<sup>1</sup> *Spring v. SEPTA*, OOR Dkt. AP 2017-2039 (Appeal was filed prior to the RTKL appeal period.).

supplement the record and directed SEPTA to notify any third parties of their ability to participate in the appeal. *See* 65 P.S. § 67.1101(c).

On November 16, 2017, SEPTA submitted a position statement explaining that SEPTA did not receive the Request until November 6, 2017, when the OOR issued a Final Determination in the prior appeal.

Under the RTKL, a statement made under the penalty of perjury may serve as sufficient evidentiary support. *See Sherry v. Radnor Twp. Sch. Dist.*, 20 A.3d 515, 520-21 (Pa. Commw. Ct. 2011); *Moore v. Office of Open Records*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010). Because SEPTA's Open Records Officer received the Request on November 6, 2017, the same day as the filing of this appeal, the appeal is **dismissed as premature**. *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. 2014).

For the foregoing reason, SEPTA 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 to the Commonwealth Court. 65 P.S. § 67.1301(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 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 website at: <http://openrecords.pa.gov>.

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

**FINAL DETERMINATION ISSUED AND MAILED: December 6, 2017**

/s/ Jill S. Wolfe

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