

The Requester timely appealed on December 14th. Upon receipt of the Appeal and the OOR's correspondence seeking details regarding the deemed denial, the Township did not supplement the record or provide grounds for withholding the record.

LEGAL ANALYSIS

The OOR is authorized to hear appeals for all Commonwealth and local agencies. *See* 65 P.S. §67.503(a). The Township is a local agency subject to the RTKL that is required to disclose public records. 65 P.S. §67.302. Records of a local agency are presumed "public" unless the record is: (1) exempt under Section 708(b); (2) protected by a privilege; or (3) exempt from disclosure under any other Federal or State law or regulation or judicial order or decree. 65 P.S. §67.305. The Township did not dispute the public nature of the ordinance requested, nor deny that an ordinance as described existed.

There is no question that a final ordinance is a public record. The Township presented no evidence that the record requested does not exist, and supplied no grounds for withholding it and therefore must disclose it, or alternatively provide an affidavit made under penalty of perjury by someone with personal knowledge that no such ordinance exists.

CONCLUSION

For the foregoing reasons, the Requester's appeal is **granted**, and the Township is directed to provide the described ordinance to the Requester within thirty (30) days, or an affidavit as to its non-existence.

This Final Determination is binding on the parties. Within thirty (30) days of the mailing date of this Final Determination, either party may appeal to the Northumberland 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. This Final Determination shall be placed on the website at <http://openrecords.state.pa.us>.

FINAL DETERMINATION ISSUED AND MAILED: January 12, 2010

A handwritten signature in cursive script that reads "Lucinda Glinn".

**LUCINDA GLINN, ESQ.
APPEALS OFFICER**

Sent to: Richard Mychak; Samuel Scicchitano for Township