

FACTUAL BACKGROUND

In a letter dated September 24, 2009, the Requester filed the Request with the Department seeking specific data on lottery sales. On October 1, 2009, the Department provided the Requester with documents and denied access to lottery sales data by vendors. The Requester filed an appeal with the OOR on October 21, 2009. After filing the appeal, the Requester contacted the Department and notified the OOR that the parties were working together to resolve the appeal. As a result, the Requester granted the OOR additional time to issue the Final Determination.

In a letter dated December 4, 2009, the Department indicated that as a result of a phone conference involving the Department, the Pennsylvania Lottery, and the Requester, the Department agreed to provide the Requester with the information requested. In late December, the Requester informed the OOR that he had not received the records/information/format he requested. The Department informed the OOR on December 24, 2009 that it was sending additional records to the Requester. In a January 8, 2010 declaration, the Department affirmed that it provided the Requester with the information in the format he requested. The Department filed a Motion to Dismiss maintaining that the appeal should be dismissed as moot.

The OOR has tried numerous times to reach the Requester to determine whether the documents/information provided by the Department resolve the appeal. The undersigned left a voice message on December 30, 2009 and again on January 4, 2010. The undersigned also telephoned the Requester on January 5, 2010 and January 6, 2010. The undersigned also contacted the Requester via e-mail on January 7, 2010. The Requester has not responded.

LEGAL ANALYSIS

The OOR is authorized to hear appeals for all Commonwealth and local agencies. See 65 P.S. §67.503(a). The Department is a Commonwealth agency subject to the RTKL. See 65 P.S. § 67.301.

In the instant appeal, the Department has provided a sworn affidavit that it has sent the information to the Requester in the format he requested. The Requester has not notified the OOR whether this satisfies the Request and moots the appeal.

Therefore, the OOR denies the appeal without prejudice to the Requester filing a second request with the Department making a more specific request for records that contain the information sought.

CONCLUSION

For the foregoing reasons, this appeal is **denied**. The Department is not required to take any further action. The parties are advised that this is a Final Determination and is binding on the parties. Within thirty (30) days of the mailing date of this determination, either party may appeal to the Commonwealth Court. All parties must be served with notice of the appeal. The Office of Open Records also shall be served notice and have an opportunity to respond according to court rules. 65 P.S. §67.1302.

| FINAL DETERMINATION ISSUED AND MAILED: January 12, 2010



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