
BOROUGH OF BATH,	:	IN THE COURT OF COMMON PLEAS
Petitioner,	:	NORTHAMPTON COUNTY,
	:	PENNSYLVANIA
v.	:	CIVIL DIVISION
MICHAEL LONG,	:	
Respondent.	:	NO. C-48-CV-2024-01039

ORDER

AND NOW, this _____ day of _____, 2024, upon consideration of the Respondent's Motion for Protective Order, Sanctions, and Injunctive Relief and Petitioner's response thereto, the Motion is hereby DENIED.

BY THE COURT:

, J.

BOROUGH OF BATH, Petitioner,	:	IN THE COURT OF COMMON PLEAS
	:	NORTHAMPTON COUNTY,
	:	PENNSYLVANIA
v.	:	CIVIL DIVISION
MICHAEL LONG, Respondent.	:	
	:	NO. C-48-CV-2024-01039

RESPONSE TO MOTION FOR PROTECTIVE ORDER

AND NOW COMES Petitioner Borough of Bath (“Petitioner” or “Borough”) and files this Response to Respondent’s Motion for Protective Order, Sanctions, and Injunctive Relief, averring as follows:

INTRODUCTION

This matter is a statutory appeal arising under the Pennsylvania Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, a statute limited to determining whether specific documents held by government agencies are subject to public access. The instant Motion for Protective Order, Sanctions, and Injunctive Relief (“Motion”) goes far beyond the limited question at issue in this matter (whether certain requested records are public), and, instead, makes wholly irrelevant and outlandish factual assertions and seeks relief that, quite frankly, is not available under the RTKL. Accordingly, the instant Motion should be denied.

RESPONSE

1. Admitted in part and denied in part. It is admitted that Respondent Michael Long (“Respondent”) is a resident of the Borough of Bath and has been engaged in litigation with Petitioner concerning access to records under the RTKL. The remaining averments are specifically denied.

2. Admitted.

3. The averments of this paragraph are specifically denied. Strict proof thereof is demanded. By way of further answer, Petitioner has, as permitted by 65 P.S. § 67.1302(a), exercised its statutory ability to a petition for review concerning a final determination issued by the Pennsylvania Office of Open Records involving a request for records under the RTKL.

4. The averments of this paragraph and subparagraph are specifically denied. Strict proof thereof is demanded.¹

a. The Borough has in no way “fabricated privilege claims” or tampered “with evidence.” Strict proof thereof is demanded.

i. Admitted in part and denied in part. It is admitted that Petitioner has asserted that communications between the Borough and its legal counsel where legal advice was sought or provided outside the presence of strangers are subject to the attorney-client privilege. It is specifically denied that such communications “likely do not qualify for protection.”

ii. The averments of Paragraph 4(a)(ii) are specifically denied. The averments of Paragraph 4(a)(i) are incorporated herein by reference. By way of further reference, no such “discrepancies” exist not has any privilege claim been “fabricated.”

iii. The averments of Paragraph 4(a)(iii) are specifically denied. Strict proof thereof is demanded at trial. By way of further answer, although the portion of the email referenced here was not responsive to the underlying RTKL request, it is, nevertheless, protected by the attorney-client privilege.

¹ For ease of reference, the Borough adopts Respondent’s numbering scheme in response.

- b. This subheading has no bearing on the sole legal issue in this matter as to whether the records at issue are public, and, accordingly, is specific denied.
 - i. The averments in this subparagraph have no bearing on the sole legal issue in this matter as to whether the records at issue are public, and, accordingly, are specifically denied. By way of further answer, the need to respond to the instant Motion that has absolutely no legal basis is yet another example of wasted legal costs. The Borough reserves the right to seek appropriate sanctions as a result of the instant Motion.
 - ii. The averments in this subparagraph have no bearing on the sole legal issue in this matter as to whether the records at issue are public, and, accordingly, are specifically denied. The Borough reserves the right to seek appropriate sanctions as a result of the instant Motion.
 - iii. The averments in this subparagraph have no bearing on the sole legal issue in this matter as to whether the records at issue are public, and, accordingly, are specifically denied. The Borough reserves the right to seek appropriate sanctions as a result of the instant Motion.
- c. This subheading has no bearing on the sole legal issue in this matter as to whether the records at issue are public, and, accordingly, is specific denied.
 - i. The averments in this subparagraph have no bearing on the sole legal issue in this matter as to whether the records at issue are public, and, accordingly, are specifically denied. By way of further answer, the Borough has in no way engaged in an alleged “coordinated effort to publicly vilify Respondent and incite harassment against him.” The

Borough reserves the right to seek appropriate sanctions as a result of the instant Motion.

- ii. The averments in this subparagraph have no bearing on the sole legal issue in this matter as to whether the records at issue are public, and, accordingly, are specifically denied. By way of further answer, as Ms. Reginelli-Mirabito, on her personal social media account, lacked actual authority to speak on behalf of the Borough and did not purport to exercise such authority on the Borough's behalf, any alleged statements are completely irrelevant as to any action taken by the Borough. The Borough reserves the right to seek appropriate sanctions as a result of the instant Motion.
- iii. The averments in this subparagraph have no bearing on the sole legal issue in this matter as to whether the records at issue are public, and, accordingly, are specifically denied. By way of further answer, the Borough does not in any way make editorial decisions concerning news content on behalf of WFMZ-TV. The Borough reserves the right to seek appropriate sanctions as a result of the instant Motion.
- d. This subheading has no bearing on the sole legal issue in this matter as to whether the records at issue are public, and, accordingly, is specific denied.
 - i. Admitted in part and denied in part. It is admitted that the Borough published certain communications on its website concerning a different appeal involving a different set of records sought by Respondent. It is specifically denied that such information has any relevance to the question

as to whether the records at issue in the instant appeal are public or that such information related to different records in another matter, in any way jeopardizes Respondent's legal position here. Strict proof there is demanded.

5. Admitted in part and denied in part. It is admitted that there was a budget meeting scheduled on September 9, 2024. The remaining averments, none of which have any bearing on the sole legal issue as to whether the records at issue are public, are specifically denied. Strict proof thereof is demanded.

6. It is admitted that Respondent resides with his mother. As the Borough is without knowledge as to the age of Respondent's mother or her concerns, the Borough specifically denies the same. By way of further answer, Respondent's mother is not a party to the instant statutory appeal concerning whether certain documents in the possession of the Borough are subject to public access under the RTKL, nor are any of the averments within this paragraph in any way relevant to the legal issue as to whether the records at issue in this appeal are subject to public access.

ARGUMENT

A. This subheading has no bearing on the sole legal issue in this matter as to whether the records at issue are public, and, accordingly, is specific denied.

1. Admitted in part and denied in part. It is admitted that there was a budget meeting scheduled on September 9, 2024. The remaining averments, none of which have any bearing on the sole legal issue as to whether the records at issue are public, are specifically denied. Strict proof thereof is demanded. By way of further answer, Respondent provides no legal authority to any relief requested. The

Borough reserves the right to seek appropriate sanctions as a result of the instant Motion.

B. This subheading has no bearing on the sole legal issue in this matter as to whether the records at issue are public, and, accordingly, is specific denied.

1. The averments of this paragraph and its related subparagraphs are specifically denied. Strict proof thereof is demanded. By way of further answer, Respondent provides no legal authority to any relief requested. The Borough reserves the right to seek appropriate sanctions as a result of the instant Motion.

C. This subheading has no bearing on the sole legal issue in this matter as to whether the records at issue are public, and, accordingly, is specific denied.

1. The averments of this paragraph are specifically denied. By way of further answer, these averments have no bearing on the sole legal issue in this matter as to whether the records at issue are public.

2. The averments of this paragraph are specifically denied. By way of further answer, these averments have no bearing on the sole legal issue in this matter as to whether the records at issue are public.

3. The averments of this paragraph are specifically denied. By way of further answer, these averments have no bearing on the sole legal issue in this matter as to whether the records at issue are public.

D. This subheading has no bearing on the sole legal issue in this matter as to whether the records at issue are public, and, accordingly, is specific denied.

1. Denied as a conclusion of law to which no responsive pleading is required. By way of further answer, the parties did not engage in mediation with respect to the

records at issue in the instant matter, and, accordingly, the averments of this paragraph have no bearing on the sole legal issue in this matter as to whether the records at issue are public.

2. Denied as a conclusion of law to which no responsive pleading is required. By way of further answer, the parties did not engage in mediation with respect to the records at issue in the instant matter, and, accordingly, the averments of this paragraph have no bearing on the sole legal issue in this matter as to whether the records at issue are public.
- E. This subheading has no bearing on the sole legal issue in this matter as to whether the records at issue are public, and, accordingly, is specific denied.
1. It is admitted that Respondent seeks relief, albeit without any legal basis for doing so. It is specifically denied that Respondent is entitled to any of the relief sought. By way of further answer, the averments of this paragraph and subparagraphs have no bearing on the sole legal issue in this matter as to whether the records at issue are public, and, accordingly, are specifically denied.
- F. This subheading has no bearing on the sole legal issue in this matter as to whether the records at issue are public, and, accordingly, is specific denied.
1. It is admitted that Respondent seeks relief, albeit without any legal basis for doing so. It is specifically denied that Respondent is entitled to any of the relief sought. By way of further answer, the averments of this paragraph and subparagraphs have no bearing on the sole legal issue in this matter as to whether the records at issue are public, and, accordingly, are specifically denied.

G. This subheading has no bearing on the sole legal issue in this matter as to whether the records at issue are public, and, accordingly, is specific denied. By way of further answer, because the relief sought here is so far afield from that permitted by the RTKL, no hearing is necessary.

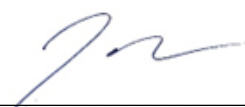
1. It is admitted that Respondent seeks relief, albeit without any legal basis for doing so. It is specifically denied that Respondent is entitled to any of the relief sought. By way of further answer, the averments of this paragraph and subparagraphs have no bearing on the sole legal issue in this matter as to whether the records at issue are public, and, accordingly, are specifically denied. Additionally, because the relief sought here is so far afield from that permitted by the RTKL, no hearing is necessary in this matter.

WHEREFORE, Petitioner respectfully asks that this Honorable Court enter an order denying the instant motion, in addition to granting Petitioner whatever additional relief this Court deems appropriate.

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

Respectfully submitted,

SCHNEE LEGAL SERVICES, LLC

By: 

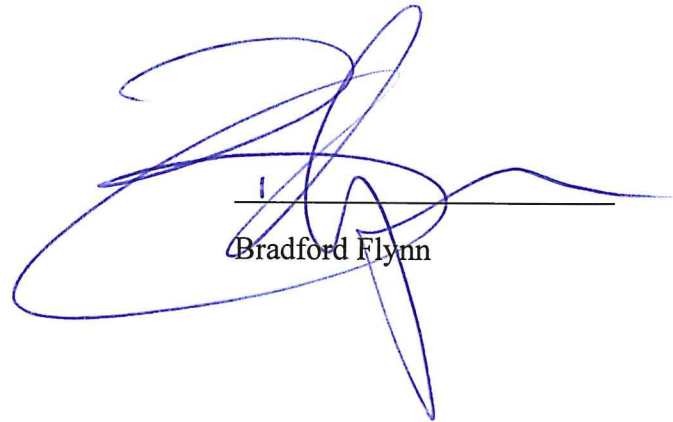
J. Chadwick Schnee, Esquire
PA Attorney ID 306907
Schnee Legal Services, LLC

74 E. Main Street, #648
Lititz, PA 17543
Phone: 717-400-5955
Fax: 717-882-5271
chadwick@schneelegal.com

Dated: September 30, 2024

VERIFICATION

I, Bradford Flynn, hereby verify that the statements made in the attached document are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.



Bradford Flynn

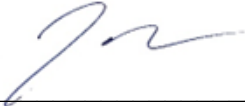
Date: September 30, 2024

BOROUGH OF BATH,	:	IN THE COURT OF COMMON PLEAS
Petitioner,	:	NORTHAMPTON COUNTY,
	:	PENNSYLVANIA
v.	:	CIVIL DIVISION
MICHAEL LONG,	:	
Respondent.	:	NO. C-48-CV-2023-10559

CERTIFICATE OF SERVICE

I, J. Chadwick Schnee, Esq., certify that, on this 30th day of September, 2024, I have served a true and correct copy of the attached Response To Motion For Protective Order on the person listed below via First Class Mail:

Michael Long
220 Creek Road
Bath, PA 18014
Respondent, pro se



J. Chadwick Schnee, Esq.