



Borough of Bath

121 South Walnut Street, Bath, PA 18014
Phone: 610-837-6525 Fax: 610-837-8989

Thursday, July 3, 2025

VIA EMAIL ONLY [REDACTED]

Michael Long
220 Creek Road
Bath, PA 18014

RE: Correspondence concerning *Borough of Bath v. Michael Long*,
C-48-CV-2024-1039

Dear Mr. Long:

As you are aware, on June 24, 2025, the Honorable Brian J. Panella issued an order in the above-referenced matter that denied the Borough of Bath's Petition for Review. Notwithstanding this denial, Judge Panella agreed that "the Borough to the extent that it is not required to disclose factual information that would necessarily disclose privileged communications 'made for the express purpose of obtaining or giving legal advice.'" Judge Panella further clarified that

Based on this Court's reading of the Final Determination, the Borough is merely ordered to review the records claimed to be privileged for "non-exempt factual information". The OOR did not require disclosure of any specific information or amount of information. This Court will not require the same.

At this time, **all the Borough has to do is reexamine the records and extract any "purely factual information".... Certainly, if the Borough is unable find a single item of factual information that cannot be disclosed without disclosing privileged communications, then the Borough may turn over nothing...**

To be clear, the Borough is in no way being ordered to provide information that would not normally be necessary to provide in any Right-to-Know Request. **The Borough must simply re-review the documents and determine if there is any factual information that would not be protected by attorney-client privilege.**

See Borough of Bath v. Michael Long, C-48-CV-2024-1039 (Northampton Com. Pl. June 24, 2025) (emphasis added).

Accordingly, in compliance with Judge Panella's order, the Borough has undertaken a review of the records at issue – the same 21 emails that were listed in Borough's Exemption Log submitted in *Long v. Borough of Bath*, OOR Dkt. AP 2023-1598, a copy of which has been

"Bath, History Nestled With Friendship"

Mr. Long
July 3, 2025
Page 2 of 2

included here. Of these, only the first 20 emails are protected by the attorney-client privilege. (The final email, Record 21, was previously released with redactions for reasons other than attorney-client privilege.)

As previously found by the Office of Open Records, all of these emails are protected by the attorney-client privilege. Nevertheless, I have re-reviewed these 20 emails for the purpose of determining whether any purely factual information could be extracted from the privileged emails. Based on my further review, the entirety of the emails at issue are privileged, and no purely factual information can be released without revealing the content of privileged communications.

As the Borough has fully complied with the Office of Open Records' and Judge Panella's orders, this correspondence serves to close this matter with the Borough.

Thank you.

Sincerely,



Bradford T. Flynn, Borough Manager
Borough of Bath

encls

Exhibit “A” – Exemption Log

Records of Borough of Bath
 OOR Dkt. No. AP 2023-1598

Record Number	Date of Record	Type of Record	Author of Record	Recipient(s) of Record	General description of subject matter	Legal Basis for Exclusion
1	12-3-21	Email with 5 attachments	Borough Solicitor	Borough employee, Borough Manager, Borough Engineer, Borough employee, Borough Mayor, and all 7 Borough Council members	Legal advice regarding Article 2.7(f) of proposed Resolution #2021-012 (process to appoint a person to a vacated Council seat) and legal advice regarding other unrelated documents	Attorney-client privilege per <u>Office of the Governor v. Davis, Jr. and Gillard v. AIG Insurance Company</u> ; RTKL Sections 102 (definitions of “public record” and “privilege”) and 305(a)(2).
2	10-19-21 at 1:46 PM	Email with 1 attachment	Borough Solicitor	Borough Council President and Borough Manager	Legal advice in response to verbal question from Borough Council President regarding prospective resignation of Councilmember Mark Saginario, prospective vacated Council seat and general process to appoint a person to vacated Council seat.	Same as above.

OOR Dkt. No. AP 2023-1598
 Exhibit "A" – Borough of Bath Exemption Log

Record Number	Date of Record	Type of Record	Author of Record	Recipient(s) of Record	General description of subject matter	Legal Basis for Exclusion
3	10-19-21 at 1:52 PM	Email	Borough Manager	Borough Solicitor and Borough Council President	Legal advice regarding prospective resignation of Councilmember Mark Saginario, prospective vacated Council seat and general process to appoint a person to vacated Council seat.	Attorney-client privilege per <u>Office of the Governor v. Davis, Jr.</u> and <u>Gillard v. AIG Insurance Company</u> ; RTKL Sections 102 (definitions of "public record" and "privilege") and 305(a)(2).
4	10-19-21 at 2:06 PM	Email	Borough Solicitor	Borough Manager and Borough Council President	Same as above.	Same as above.
5	10-3-21 at 3:38 PM	Email	Borough Council President	Borough Solicitor and Borough Manager	Same as above.	Same as above.

OOR Dkt. No. AP 2023-1598
 Exhibit "A" – Borough of Bath Exemption Log

Record Number	Date of Record	Type of Record	Author of Record	Recipient(s) of Record	General description of subject matter	Legal Basis for Exclusion
6	10-19-21 at 4:55 PM	Email	Borough Manager	Borough Solicitor and Borough Council President	Legal advice regarding prospective resignation of Councilmember Mark Saginario, prospective vacated Council seat and general process to appoint a person to vacated Council seat.	Attorney-client privilege per <u>Office of the Governor v. Davis, Jr.</u> and <u>Gillard v. AIG Insurance Company</u> ; RTKL Sections 102 (definitions of "public record" and "privilege") and 305(a)(2).
7	10-19-21 at 5:11 PM	Email	Borough Council President	Borough Solicitor and Borough Manager	Same as above.	Same as above.
8	10-19-21 at 5:12 PM	Email	Borough Council President	Borough Solicitor and Borough Manager	Same as above.	Same as above.

OOR Dkt. No. AP 2023-1598
Exhibit "A" – Borough of Bath Exemption Log

Record Number	Date of Record	Type of Record	Author of Record	Recipient(s) of Record	General description of subject matter	Legal Basis for Exclusion
9	10-19-21 at 5:18 PM	Email	Borough Manager	Borough Solicitor and Borough Council President	Legal advice regarding prospective resignation of Councilmember Mark Saginario, prospective vacated Council seat and general process to appoint a person to vacated Council seat.	Attorney-client privilege per <u>Office of the Governor v. Davis, Jr.</u> and <u>Gillard v. AIG Insurance Company</u> ; RTKL Sections 102 (definitions of "public record" and "privilege") and 305(a)(2).
10	10-19-21 at 6:57 PM	Email with 1 attachment	Borough Solicitor	Borough Manager and Borough Council President	Same as above.	Same as above.
11	10-19-21 at 7:04 PM	Email	Borough Council President	Borough Solicitor and Borough Manager	Same as above.	Same as above.
12	10-19-21 at 7:10 PM	Email	Borough Solicitor	Borough Council President and Borough Manager	Same as above.	Same as above.

OOR Dkt. No. AP 2023-1598
 Exhibit "A" – Borough of Bath Exemption Log

Record Number	Date of Record	Type of Record	Author of Record	Recipient(s) of Record	General description of subject matter	Legal Basis for Exclusion
13	4-21-22 at 2:29 PM	Email	Borough Manager	Borough Solicitor	Legal advice regarding the prospective employment of Fiorella Mirabito as a part-time office clerk for the Borough and form of compensation.	Attorney-client privilege per <u>Office of the Governor v. Davis, Jr.</u> and <u>Gillard v. AIG Insurance Company</u> ; RTKL Sections 102 (definitions of "public record" and "privilege") and 305(a)(2).
14	4-21-22 at 2:59 PM	Email	Borough Solicitor	Borough Manager	Same as above.	Same as above.
15	4-21-22 at 3:26 PM	Email	Borough Manager	Borough Solicitor	Same as above.	Same as above.
16	4-21-22 at 12:53 PM	Email	Borough Council President	Borough Solicitor	Legal advice regarding the prospective employment of Fiorella Mirabito as a part-time office clerk for the Borough	Same as above.

OOR Dkt. No. AP 2023-1598
Exhibit "A" – Borough of Bath Exemption Log

Record Number	Date of Record	Type of Record	Author of Record	Recipient(s) of Record	General description of subject matter	Legal Basis for Exclusion
17	4-21-22 at 2:16 PM	Email	Borough Solicitor	Borough Council President	Legal advice regarding the prospective employment of Fiorella Mirabito as a part-time office clerk for the Borough.	Attorney-client privilege per <u>Office of the Governor v. Davis, Jr.</u> and <u>Gillard v. AIG Insurance Company</u> ; RTKL Sections 102 (definitions of "public record" and "privilege") and 305(a)(2).
18	4-21-22 at 3:18 PM	Email	Borough Council President	Borough Solicitor	Same as above.	Same as above.
19	12-6-21 at 11:26 AM	Email	Borough Manager	Borough Solicitor	Seeking follow up legal advice regarding legal advice given regarding Article 2.7(f) of proposed Resolution #2021-012.	Attorney-client privilege per <u>Office of the Governor v. Davis, Jr.</u> and <u>Gillard v. AIG Insurance Company</u> ; RTKL Sections 102 (definitions of "public record" and "privilege") and 305(a)(2).

OOR Dkt. No. AP 2023-1598
 Exhibit "A" – Borough of Bath Exemption Log

Record Number	Date of Record	Type of Record	Author of Record	Recipient(s) of Record	General description of subject matter	Legal Basis for Exclusion
20	12-6-21 at 11:36 AM	Email	Borough Solicitor	Borough Manager	Legal advice regarding legal advice given regarding Article 2.7(f) of proposed Resolution #2021-012.	Attorney-client privilege per <u>Office of the Governor v. Davis, Jr. and Gillard v. AIG Insurance Company</u> ; RTKL Sections 102 (definitions of "public record" and "privilege") and 305(a)(2).
21	Created 5-26-23 at 4:16 PM but partially redacted prior to 6-23-23.	Attachment 'D' to 6-23-23 Bath Final Response to Mr. Long.	Initially created by Borough Bookkeeper but the partial redactions made by Borough Manager	Mr. Long and Borough Solicitor received partially redacted Attachment 'D' to 6-23-23 Bath Final Response to Mr. Long.	Attachment 'D' was/is the earnings reports for 1-1-22 to 4-30-23 for Michael Kovach, Fiorella Mirabito and David Smith with their respective home address, birth date and social security number redacted.	The respective home address, respective birth date and respective social security number for Michael Kovach, Fiorella Mirabito and David Smith were redacted per RTKL Sections 706 and 708(b)(6)(i)(A).