



OOOR RESPONSE TO PETITION FOR RECONSIDERATION

DATE ISSUED AND MAILED: September 30, 2025

IN RE: *Michael Long v. Bath Borough*, OOR Dkt. AP 2025-1943

On September 25, 2025, the Office of Open Records (“OOR”) received a petition for reconsideration (“Petition”) from Michael Long (“Requester”), pertaining to the above-referenced docket number. The Petition is **DENIED**. The Final Determination thoroughly addresses the issues, and we decline to grant reconsideration.

Further, the Petition contains multiple instances of citations or quotes that do not exist, making it inherently unreliable. For example, page 2 of the Petition contains an alleged quote from “*Pa. Dep’t of Corr. v. St. Hilaire*, 210 A.3d 1183, 1190 (Pa. Commw. Ct. 2019).” That citation is not correct¹, and instead leads to *Desamours v. State*, a 2019 case from the Supreme Court of Rhode Island. Notwithstanding that deficiency, the quote does not exist in *St. Hilaire*. The Petition also cites to “*In re Appeal of E. Rockhill Twp. Supervisors*, 430 A.2d 1213 (Pa. Commw. Ct. 1981)” for the proposition that “surcharge requires proof of actual loss through examination of financial records.” However, that citation leads to another 1981 Commonwealth Court case – *Bi-Lo Shop-N-Bag v. Workmen’s Compensation Appeal Bd.* – which has nothing to do with the cited proposition. The undersigned has been unable to find any case captioned “*In re Appeal of E. Rockhill Twp. Supervisors*.” As a final example, the Petition states: “The Pennsylvania Supreme Court has held that retrieving and exporting data from an existing agency database does not constitute the “creation” of a new record. *Pa. State Police v. Grove*, 161 A.3d 877, 894 (Pa. 2017).” However, the *Grove* opinion does not contain such a holding– while it contains analysis as to whether the redaction of a video record creates a new record, that analysis does not concern databases. Further, page 894 of the *Grove* opinion clearly concerns whether a video contains criminal investigative material and does not involve data or databases.

Based upon the above, it is likely that there are additional misstatements contained in the Petition. These misstatements are concerning. The Petition concludes with a verification stating: “I verify that the statements made herein are true and correct to the best of my knowledge, information, and belief. I understand that false statements made herein are subject to the penalties of 18 Pa.C.S. § 4904.” It is unclear whether the statements were intentionally made, or whether the statements were

¹ The correct citation is 128 A.3d 859.

generated through the use of artificial intelligence (AI) and not thoroughly vetted by the Requester. However, on page 7 of the Final Determination, the Appeals Officer warned the Requester, as follows:

It is important to note that in this submission, the Requester cites to a purported Commonwealth Court case to support that a claim that the Borough’s argument regarding the creation of a record is barred by judicial estoppel and that it is a doctrine applicable to agency proceedings; however, a review of the citation provided reveals a completely different case than the one cited by the Requester. Further, there is no evidence that the Commonwealth Court case cited by the Requester even exists. Accordingly, it is unclear if this citation was gathered and summarized by using artificial intelligence (“AI”). AI routinely hallucinates the existence of case law or misrepresents the holdings of case law that exist to the user’s detriment. The use of AI does not relieve parties of their obligation to present accurate facts and legal arguments to the OOR in good faith. Additionally, quotes from cases and court opinions submitted to the OOR should be accompanied with citations to the exact, actual page of said quote.

I again caution the Requester: parties have an obligation to present accurate facts and legal arguments to the OOR.

Issued by:
[/s/ Kyle Applegate](#)

CHIEF COUNSEL
Kyle Applegate

Sent to: Michael Long; Bradford Flynn; J. Chadwick Schnee, Esq.