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Via e-filing portal

Tope L. Quadri, Esq.
Appeals Officer
Pennsylvania Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234

RE: Supplemental submission on behalf of the Borough of Bath in *Michael Long v. Borough of Bath*, OOR Dkt. AP 2025-1943

Dear Appeals Officer Quadri:

Yesterday and five days after the record closed in this matter, I received yet another submission from Mr. Michael Long in this matter. As the party which bears the burden of proof in this matter, the Borough of Bath (“Borough”) respectfully submits this short submission to address Mr. Long’s various newly-raised concerns, to the extent that the Office of Open Records (“OOR”) does not reject Mr. Long’s submission as having been untimely filed.

Much of what Mr. Long has already been addressed by the Borough in its prior submissions. Nevertheless, Mr. Long now asserts that the Borough’s Bookkeeper lacks personal knowledge as to the records in her possession, custody or control. Regardless of when Ms. Silvestri assumed her role, the undisputed evidence is that she has served in her Bookkeeper role for several years and understands what records exist in her possession, custody or control and what documents could be created using QuickBooks software. Ms. Silvestri’s date of hire is simply irrelevant to her personal knowledge of all records within her job responsibility as Borough Bookkeeper.

Mr. Long again appears to miss the point with respect to his Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, request (“Request”). While the Borough potentially has the technical capabilities in response to the instant Request to extract data from its database, manipulate it using the 10 parameters and multi-year timeframe set forth in the Request, compile it the manner sought and then format the complied information into the specific format sought in the Request, the Borough is not legally *required* to do so.

In terms of the case law, Mr. Long appears to ignore the specific of both *Cole* and *Gingrich*. In *Gingrich*, for example, the request at issue specifically sought “supporting data” concerning various financial reports and, although the request suggested various formats, it did not actually require the agency to produce records in particular file formats. *Gingrich v. Pennsylvania Game Comm'n*, No. 1254 C.D. 2011, 2012 WL 5286229, at *1 (Pa. Commw. Jan. 12, 2012). Similarly, in *Cole*, a request also sought raw data, but did not require the agency to manipulate, compile or format the data in any way. By way of contrast, the instant Request does not just seek data as in *Gingrich*; instead, the Request seeks to take the data, manipulate it, compile it in specific formats and ways and then format the resulting compiled data into a newly-created report. *See, e.g., Ctr. for Investigative Reporting v. Pennsylvania Dep't of Health*, 322 A.3d 286 (Pa. Commw. 2024) (agreeing that running “a custom query to manipulate existing records and compile it in a new form” requires the creation of a record).

Finally, the Borough notes that Mr. Long appears to have forged an attestation from Mark Saginario and attached it with its submission. Specifically, Mr. Saginario has informed the Borough that he “did not sign [Long’s attestation]” and that he “refused to be involved when Mr. Long approached [him].” *See* attached email excerpt from Mr. Saginario. In other words, Mr. Long appears to have submitted an attestation, under penalty of perjury, from an individual who did not make the statements contained therein. As a result, the OOR should reject Mr. Long’s purported evidence as a sanction and, if appropriate, refer this matter to law enforcement.

Thank you.

Regards,

A handwritten signature in black ink, appearing to read 'J. Schnee', with a stylized flourish at the end.

J. Chadwick Schnee, Esq.

Dear Mr. Fylnn,

I understand that Mr. Long is in Right to Know appeals with the Borough of Bath. I can attest that I did not sign this assentation, and I refused to be involved when Mr. Long approached me.

I am willing to sign an affidavit stating that I did not sign this assentation. I informed Mr. Long that I do not wish to be involved, and I do not wish to bring my past as a member of Bath Borough Council into this conflict. I also informed him that Tatamy Borough Council has not given me the authorization to at in any capacity as manger to be involved, and I do not want Tatamy involved.

Again, I am willing to sign an affidavit that I did not sign that document.



Mark A. Saginario | Borough Manager, CBO
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