

J. Chadwick Schnee, Esquire (PA 306907)
Schnee Legal Services, LLC
74 E. Main Street, #648
Lititz, PA 17543
(717) 400-5955
Fax: (717) 882-5271
chadwick@schneelegal.com

Attorney for Respondent

MICHAEL LONG,	:	IN THE COURT OF COMMON PLEAS
Petitioner,	:	NORTHAMPTON COUNTY,
	:	PENNSYLVANIA
v.	:	CIVIL DIVISION
BOROUGH OF BATH,	:	
Respondent.	:	NO. C-48-CV-2025-10070

RESPONSE TO PETITION FOR REVIEW

AND NOW COMES Respondent Borough of Bath (“Respondent” or “Borough”), who, by and through its undersigned legal counsel, files this Response to Petition for Review, averring as follows:

INTRODUCTION

The instant matter is a statutory appeal under the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.* in which Petitioner Michael Long (“Petitioner”) sought a massive host of records. In the Petition for Review (“Petition”) does not identify which particular records are at issue in this appeal or even which portions of the underlying final determination issued by the Office of Open Records (“OOR”) in *Long v. Borough of Bath*, OOR 2025-1943 are in dispute.

Additionally, while Petitioner appears to be appealing the above-referenced final order, Petitioner, in Paragraphs 10-12 of the Petition, articulates the standard for reviewing OOR decisions to deny reconsideration. Omitted from the Petition is the fact that Petitioner sought reconsideration from the OOR, and, on September 30, 2025, the OOR denied reconsideration. A

true and correct copy of the OOR's September 30, 2025 denial is attached hereto at Exhibit A. In denying reconsideration, the OOR stated as follows:

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 correct, 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 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.

See Exhibit A.

Undeterred, Petitioner has once again cited cases that do not stand for the proposition to which they were cited, including, in Paragraph 38 of the Petition, a statement remarkably similar to the same statement that the OOR's Chief Counsel specifically noted was incorrect. *Compare* Exhibit A ("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") *with* Paragraph 38 of the Petition ("The Supreme Court has held that data retrieved from an agency database using existing functionality is not 'creating' a record. *Pa. State Police v. Grove*...."). Notably, this Court has previously sanctioned Petitioner due to filings that included fake citations. *See, e.g., Borough of Bath v. Long*, C-48-CV-2024-01039 (North. Com. Pl. Dec. 9, 2024) (Kassis, J.).

1. Admitted.
2. Admitted.
3. Admitted.

4. It is admitted that Petitioner Michael Long (“Petitioner”) has sought relief from this Court.

5. Admitted.

6. Denied as stated. The Borough is a political subdivision and “local agency” as defined by the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*

7. Admitted.

8. Denied. It is unclear as to whether Petitioner is seeking review of the final determination in *Long v. Borough of Bath*, OOR Dkt. AP 2025-1943 as stated in this paragraph or, instead, is seeking review of the September 30, 2025 decision of the Office of Open Records (“OOR”) to deny his Request for Reconsideration, as Paragraphs 10-12 of the Petition for Review (“Petition”) only addresses the standard of review with respect to the denial of reconsideration by the OOR. To the extent that Petitioner is seeking to challenge the denial of reconsideration, Petitioner has not attached a copy of this order to the Petition.

9. It is admitted that the underlying final determination is attached to the Petition. The remaining averments of this paragraph are specifically denied.

10. Denied as a conclusion of law to which no responsive pleading is required.

11. Denied as a conclusion of law to which no responsive pleading is required.

12. Denied as a conclusion of law to which no responsive pleading is required. By way of further answer, neither case cited (*Bowling v. Office of Open Records*, 75 A.3d 45 (Pa. 2013) and *Chambersburg Area School District v. Dorsey*, 97 A.3d 1281 (Pa. Commw. 2014)) have anything to do with applying an abuse of discretion standard in the context of an appeal from a final order of the OOR including a final order denying reconsideration.

13. Denied as a conclusion of law to which no responsive pleading is required.

14. This statement is set forth as a question, and, accordingly, does not contain an averment to which the Borough can respond. To the extent that this Paragraph requires a response, it is specifically denied.

15. This statement is set forth as a question, and, accordingly, does not contain an averment to which the Borough can respond. To the extent that this Paragraph requires a response, it is specifically denied.

16. This statement is set forth as a question, and, accordingly, does not contain an averment to which the Borough can respond. To the extent that this Paragraph requires a response, it is specifically denied.

17. This statement is set forth as a question, and, accordingly, does not contain an averment to which the Borough can respond. To the extent that this Paragraph requires a response, it is specifically denied.

18. This statement is set forth as a question, and, accordingly, does not contain an averment to which the Borough can respond. To the extent that this Paragraph requires a response, it is specifically denied.

19. This statement is set forth as a question, and, accordingly, does not contain an averment to which the Borough can respond. To the extent that this Paragraph requires a response, it is specifically denied.

20. Admitted in part and denied in part. It is admitted that Petitioner is making averments. However, such averments are specifically denied, as the Borough's prior response to a different request and appeal that sought records other than what was ordered released in the underlying final determination has any relevance to the present matter or that evidence surrounding

that other appeal is part of the evidentiary record of the instant proceedings. The remaining averments are specifically denied.

21. Admitted in part and denied in part. It is admitted that Petitioner is making averments. However, such averments are specifically denied. Further, the averments of this Paragraph refer to a writing, and any characterizations thereof are specifically denied.

22. Admitted in part and denied in part. It is admitted that Petitioner is making averments. The averments of this Paragraph refer to a writing, and any characterizations thereof are specifically denied.

23. Admitted in part and denied in part. It is admitted that Petitioner is making averments. However, such averments are specifically denied. Further, the averments of this Paragraph refer to writings, and any characterizations thereof are specifically denied. Additionally, to the extent that Petitioner refers to evidence and holdings in a different matter involving a different request for records, such materials are outside the scope of the instant appeal.

24. Admitted in part and denied in part. It is admitted that Petitioner is making averments. However, such averments are specifically denied as conclusions of law to which no responsive pleading is required.

25. Admitted.

26. Denied as a conclusion of law to which no responsive pleading is required. By way of further answer, Petitioner has waived the issues cited herein by failing to raise them before the OOR. *See Crocco v. Pennsylvania Dep't of Health*, 214 A.3d 316, 321 (Pa. Commw. Ct. 2019).

27. Denied as a conclusion of law to which no responsive pleading is required. By way of further answer, Petitioner has waived the issues cited herein by failing to raise them before the OOR. *See Crocco*, 214 A.3d at 321.

28. Denied as a conclusion of law to which no responsive pleading is required. By way of further answer, Petitioner has waived the issues cited herein by failing to raise them before the OOR. *See Crocco*, 214 A.3d at 321.

29. Denied as a conclusion of law to which no responsive pleading is required. By way of further answer, Petitioner has waived the issues cited herein by failing to raise them before the OOR. *See Crocco*, 214 A.3d at 321.

30. Denied as a conclusion of law to which no responsive pleading is required. By way of further answer, Petitioner has waived the issues cited herein by failing to raise them before the OOR. *See Crocco*, 214 A.3d at 321.

31. Denied as a conclusion of law to which no responsive pleading is required.

32. Denied as a conclusion of law to which no responsive pleading is required. By way of further answer, Petitioner's reliance on *Commonwealth v. Cole*, 52 A.3d 541 (Pa. Commw. 2012) is misplaced, as, in that decision, an agency "freely chose to compile the information sought in the spreadsheets it created and provided to" a requester, and the Commonwealth Court merely noted that the agency did not have to do so and could, instead, "simply ... provide [the information] in the same format that it would be available to agency personnel." 52 A.3d at 549 n.12. In other words, *Cole* does not prevent agencies from satisfying requests by providing records in other formats.

33. Denied.

34. Denied as a conclusion of law to which no responsive pleading is required. By way of further answer, Petitioner is once again attempting to bootstrap alleged evidence submitted in response to a different RTKL request and appeal to the instant matter. Further, to the extent that Petitioner is referring to writings, the Borough specifically denies any characterization thereof.

35. Denied as a conclusion of law to which no responsive pleading is required. By way of further answer, the evidence submitted in this matter met the Borough's burden of proof under the RTKL.

36. Denied as a conclusion of law to which no responsive pleading is required. By way of further answer, no "false swearing" or "contradictions" exist in the present matter.

37. Denied as a conclusion of law to which no responsive pleading is required. By way of further answer, *Pennsylvania Dep't of Educ. v. Pittsburgh Post-Gazette*, 119 A.3d 1121 (Pa. Commw. 2015) has nothing to do whether records exist, as, instead, it addresses specificity of requests for purposes of 65 P.S. § 67.703. In other words, this case does not stand for the proposition for which Petitioner cites (namely, that "a record 'exists' if the information is maintained in an agency's system and can be retrieved through ordinary means, even if not previously saved as a file").

38. Denied as a conclusion of law to which no responsive pleading is required. By way of further answer, *Pa. State Police v. Grove*, 161 A.3d 877 (Pa. 2017) did not hold that "data retrieved from an agency database using existing functionality is not 'creating' a record." Instead, *Grove* found that the redaction of police mobile video recordings did not result in the creation of a new record for purposes of 65 P.S. § 67.705. *Grove*, 161 A.3d at 896-98. Further, *SWB Yankees LLC v. Wintermantel*, 45 A.3d 1029 (Pa. 2012) also has nothing to do with the proposition for which Petitioner cites it, as, instead, it addressed the accessibility of third-party contractor records under 65 P.S. § 67.506(d).

39. Denied as a conclusion of law to which no responsive pleading is required. By way of further answer, Petitioner has not identified what "contradictory affidavits" and "shifting explanations" he is referring to here, nor has Petitioner explained what he means when he states

that the Borough is purportedly “refus[ing] to produce records...” While the Borough has in no way violated any provision of the Crimes Code in responding to Petitioner’s request and appeal, the Borough notes that such assertions are outside the scope of this statutory appeal concerning access to public records under the RTKL.

40. It is admitted that Petitioner seeks relief; however, it is specifically denied that Petitioner is entitled to any of the relief sought.

41. Denied as a conclusion of law to which no responsive pleading is required. By way of further answer, it is difficult to ascertain what relief Petitioner is seeking here. From a review of this Paragraph, it appears that Petitioner is solely arguing that the files provided should have been provided in Excel format, rather than as a PDF; however, the OOR correctly held that the Borough was not required to produce records in the specific file format sought by Petitioner. The remaining averments of this Paragraph are specifically denied.

WHEREFORE, Respondent asks that the final order issued by the Office of Open Records be affirmed.¹

¹ Respondent notes that, in Petitioner’s lengthy Wherefore clause, Petitioner repeatedly mischaracterizes the law and seeks relief not permitted under the RTKL in the context of this statutory appeal, such as appointing a “Special Master authorized to access the Borough’s QuickBooks installation” and criminal referrals. Petitioner also asks the Court to find “bad faith ... based on the” unidentified alleged “pattern of [unknown] contractor affidavits, [unidentified and allegedly] false factual statements, [unidentified] witness intimidation” and the nebulously-stated “six-proceeding deny-then-produce cycle spanning 27 months.” As the Petition does not identify any of this information and appears to relate to requests and appeals filed prior to the underlying RTKL request, such relief should be denied. Further, to the extent that Petitioner argues that there is “continued non-compliance with OOR production order,” the Borough respectfully notes that the filing of the Petition has stayed the release of records as a matter of law. *See* 65 P.S. § 67.1302(b). With respect to communications with Mr. Saginario during the course of the underlying RTKL appeal, the Borough believes such relief is moot, given that such communications are believed to be part of the certified record before the OOR. Finally, to the extent that Petitioner argues that 8 Pa.C.S. § 1106(b)(2) enables him to access records, the Borough notes that (1) Petitioner sought records under the RTKL, rather than the Borough Code, and (2) the RTKL provides the means of accessing records under the Borough Code. *See generally ALDEA v. County of Berks*, OOR Dkt. 2017-1888 (rejecting that argument that a records access provision of the County Code precluded access under the RTKL), *aff’d* No. 18-2660 (Berks Com. Pl. July 19, 2021) (Sprecher, J.). Further, a number of the issues raised in the Wherefore clause have been waived because Petitioner failed to raise them before the OOR. *See Crocco*, 214 A.3d at 321.

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: November 12, 2025

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: November 12, 2025

BOROUGH OF BATH,	:	IN THE COURT OF COMMON PLEAS
Petitioner,	:	NORTHAMPTON COUNTY,
	:	PENNSYLVANIA
v.	:	CIVIL DIVISION
MICHAEL LONG,	:	
Respondent.	:	NO. C-48-CV-2025-10070

CERTIFICATE OF SERVICE

I, J. Chadwick Schnee, Esq., certify that, on this 12th day of November, 2025, I have served a true and correct copy of the attached Response to Petition for Review to the person listed below via First Class Mail:

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



J. Chadwick Schnee, Esq.