

RECEIVED

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY,  
PENNSYLVANIA

APR 04 2016

THE MUNICIPALITY OF MT.  
LEBANON,

Petitioner,

v.

ELAINE GILLEN,

Respondent,

And

PENNSYLVANIA OFFICE OF OPEN  
RECORDS,

Interested Party.

: CIVIL DIVISION OFFICE OF OPEN RECORDS

: No. SA 15-000963

: No. SA 16-000236

: **MOTION TO CONSOLIDATE**

: Filed on Behalf of: Respondent

: ELAINE GILLEN

: Counsel of Record for this Party:

: Ronald D. Barber

: Pa. I.D. No. 52734

: rbarber@smgglaw.com

: Gretchen E. Moore

: Pa. I.D. No. 202103

: gmoore@smgglaw.com

: Edward A. Knafelc

: Pa. I.D. No. 316820

: tknafelc@smgglaw.com

: STRASSBURGER McKENNA GUTNICK  
& GEFSKY

: Four Gateway Center, Suite 2200

: 444 Liberty Avenue

: Pittsburgh, PA 15222

: Telephone: (412) 281-5423

: Facsimile: (412) 281-8264

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY,  
PENNSYLVANIA

THE MUNICIPALITY OF MT. LEBANON,	:	CIVIL DIVISION
	:	
Petitioner,	:	No. SA 15-000963
	:	No. SA 16-000236
	:	
v.	:	
	:	
ELAINE GILLEN,	:	
	:	
Respondent,	:	
	:	
And	:	
	:	
PENNSYLVANIA OFFICE OF OPEN RECORDS,	:	
	:	
Interested Party.	:	

**MOTION TO CONSOLIDATE**

AND NOW COMES, Elaine Gillen (Respondent herein) by and through her undersigned counsel and files the within Motion to Consolidate, and in support thereof avers as follows:

1. The subject of the above-captioned cases involves Right-to-Know Law (RTKL) requests for documents that relate to deer population management within the Municipality of Mt. Lebanon (Municipality herein).
2. In July 2015, the Municipality awarded a contract to White Buffalo, Inc. (White Buffalo herein) to conduct an organized bow hunt on public and private properties within the Municipality in order to curb the community's deer population.

3. Property owners within the Municipality would contact White Buffalo and offer to donate their properties for participation in the hunt and would also offer their services as archers in the hunt.

4. White Buffalo would then decide what properties and which hunters would participate in the hunt.

5. On July 30, 2015, Respondent submitted her initial request to the Municipality pursuant to the RTKL.

6. The initial request sought “[a]ll communications to and/or from municipal staff and, all communication to and/or from the commission concerning Anthony DeNicola’s archery program from June 18, 2015 to the present.”

7. On September 4, 2015, the Municipality partially granted and partially denied the initial request – specifically, the Municipality provided 131 e-mails to Respondent but denied access to other e-mails on the basis that public access to those records would result in a substantial and demonstrable risk to the personal security of property owners or that the e-mails would identify individuals making a donation to the agency.

8. On September 18, 2015, Respondent appealed the Municipality’s partial denial to the Pennsylvania Office of Open Records (OOR).

9. On November 24, 2015, the OOR granted Respondent’s appeal and directed the Municipality to make available all documents requested by Respondent’s July 30, 2015 RTKL request.

10. The Municipality appealed the decision of the OOR to this Honorable Court. That appeal is currently pending at Docket No. SA-15-000963.

11. On November 25, 2015, Respondent submitted a second RTKL request to the Municipality of Mt. Lebanon.

12. The second request differed from the first only in the time period that it covered. Specifically, the second request sought “[a]ll communications to and/or from municipal staff and, all communication to and/or from the commission concerning Anthony DeNicola’s archery program from July 31, 2015 through November 25, 2015.”

13. On January 4, 2016, the Municipality partially granted and partially denied the second request – specifically, the Municipality provided some of the requested e-mails to Respondent but denied access to other e-mails on the basis that public access to those records would result in a substantial and demonstrable risk to the personal security of property owners or that the e-mails would identify individuals making a donation to the agency.

14. On, January 6, 2016, Respondent appealed the Municipality’s partial denial to the OOR.

15. On February 23, 2016, the OOR granted Respondent’s appeal and directed the Municipality to make available all documents requested by Respondent’s November 25, 2015 RTKL request.

16. On March 22, 2016, the Municipality submitted a Petition for Judicial Review of Final Determination of the Pennsylvania Office of Open Records to this Honorable Court that is currently pending at Docket No. SA-16-000236.

17. Consolidation of the actions pending at Docket No. SA-15-000963 and Docket No. SA-16-000236 is appropriate pursuant to Pa.R.C.P. 213 as the actions are

between the same parties, arise from the same dispute and involve common questions of law and/or facts.

18. Consolidation would better serve the interest of the parties, as well as further the interests of judicial economy.

19. Petitioner [does/does not] consent to this motion.

WHEREFORE, Respondent respectfully requests that that this Court consolidate the actions pending at Docket No. SA-15-000963 and Docket No. SA-16-000236.

Respectfully submitted,

STRASSBURGER MCKENNA GUTNICK  
& GEFSKY

By:



Ronald D. Barber, Esq.  
Gretchen E. Moore, Esq.  
Edward A. Knafelc, Esq.

Four Gateway Center, Suite 2200  
444 Liberty Avenue  
Pittsburgh, PA 15222  
Telephone: 412-281-5423  
Facsimile: 412-281-8264

*Counsel for Respondent, Elaine Gillen*

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY,  
PENNSYLVANIA

THE MUNICIPALITY OF MT. LEBANON,	:	CIVIL DIVISION
	:	
Petitioner,	:	No. SA 15-000963
	:	No. SA 16-000236
	:	
v.	:	
	:	
ELAINE GILLEN,	:	
	:	
Respondent,	:	
	:	
And	:	
	:	
PENNSYLVANIA OFFICE OF OPEN RECORDS,	:	
	:	
Interested Party.	:	

**ORDER**

On this \_\_\_\_\_ day of \_\_\_\_\_, 2016, upon consideration of the foregoing Motion to Consolidate, it is hereby ORDERED that the Motion is GRANTED. The action filed at Docket No. SA-15-000963 is hereby consolidated with the action at Docket No. SA-16-000236.

By the Court:

\_\_\_\_\_, J.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing **MOTION TO CONSOLIDATE** was served by Email and U.S. First Class Mail, postage prepaid, this 29<sup>th</sup> day of MARCH, 2016, on the following:

Brendan P. Lucas, Esq.  
Philip J. Weis, Esq.  
Daniel C. Garfinkel, Esq.  
Buchanan Ingersoll & Rooney, PC  
One Oxford Centre  
301 Grant Street, 20<sup>th</sup> Floor  
Pittsburgh, PA 15219-1410  
[brendan.lucas@bipc.com](mailto:brendan.lucas@bipc.com)  
(Counsel for Appellant  
The Municipality of Mt. Lebanon)

Jill S. Wolfe, Appeals Officer  
Commonwealth of Pennsylvania  
Office of Open Records  
Commonwealth Keystone Building  
400 North Street, 4<sup>th</sup> Floor  
Harrisburg, PA 17120-0225  
[jiwolfe@pa.gov](mailto:jiwolfe@pa.gov)  
(Counsel for Interested Party  
Pennsylvania Office of Open Records)

STRASSBURGER McKENNA GUTNICK  
& GEFSKY



Ronald D. Barber, Esq.  
Gretchen E. Moore, Esq.  
Edward A. Knafelc, Esq.



**Strassburger McKenna  
Gutnick & Gefsky**

ATTORNEYS AT LAW | SINCE 1919

Four Gateway Center, Suite 2200  
444 Liberty Avenue, Pittsburgh, PA 15222  
P 412.281.5423 F 412.281.8264  
www.smglaw.com

tknaflec@smglaw.com

April 1, 2016

RECEIVED

APR 04 2016

OFFICE OF OPEN RECORDS

**VIA HAND DELIVERY**

Honorable W. Terrence O'Brien  
Civil Division  
705 City-County Building  
414 Grant Street  
Pittsburgh, PA 15219

**Re: The Municipality of Mt. Lebanon v. Elaine Gillen And Pennsylvania  
Office of Open Records  
No. SA 15-000963  
No. SA 16-000236**

Dear Judge O'Brien:

Please find enclosed the Motion to Consolidate the above-referenced matters. The Motion has been consented to by all parties.

Should you have any questions or comments, please do not hesitate to call.

Very truly yours,

Edward A. Knaflec

EAK/km  
Enclosure

cc:  Brendan P. Lucas, Esquire (w/encl.)  
 Jill S. Wolfe, Appeals Officer (w/encl.)  
 Ronald D. Barber, Esquire (w/out encl.)  
 Gretchen E. Moore, Esquire (w/out encl.)  
 Elaine Gillen (w/encl.)