

RECEIVED

JUN 29 2016

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

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

: **AMENDED NOTICE OF APPEAL**

: Filed on Behalf of: Respondent

: ELAIN 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

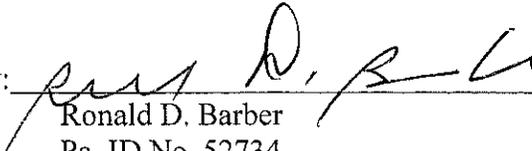
THE MUNICIPALITY OF MT. LEBANON,	:	CIVIL DIVISION
	:	
Petitioner,	:	No. SA 15-000963
	:	
v.	:	
	:	
ELAINE GILLEN,	:	
	:	
Respondent,	:	
	:	
And	:	
	:	
PENNSYLVANIA OFFICE OF OPEN RECORDS,	:	
	:	
Interested Party.	:	

**AMENDED NOTICE OF APPEAL**

Notice is hereby given that Respondent, Elaine Gillen, hereby appeals to the Commonwealth Court of Pennsylvania from the Decision dated and entered on May 23, 2016, in this matter. The Decision is attached hereto as Exhibit "A", as evidenced by the attached copy of the Docket Reports, marked as Exhibit "B". There is no transcript of the proceedings before the Court.

Respectfully submitted,

STRASSBURGER McKENNA GUTNICK  
& GEFSKY

By:   
Ronald D. Barber  
Pa. ID No. 52734  
Gretchen E. Moore  
Pa. ID No. 202103  
Edward A. Knaflec  
Pa. ID No. 316820

Four Gateway Center, Suite 2200  
444 Liberty Avenue  
Pittsburgh, PA 15222  
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(412) 281-8264 (Fax)

*Counsel for Respondent  
Elaine Gillen*

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA  
CIVIL DIVISION

THE MUNICIPALITY OF MT. LEBANON,

Petitioner,

v.

ELAINE GILLEN,

Respondent,

and

PENNSYLVANIA OFFICE OF OPEN RECORDS,

Interested Party.

DECISION UNDER 65  
P.S. § 67.1302(a)

SA 16 - 000236

FILED BY:  
JUDGE W. TERRENCE O'BRIEN

Copies sent to:

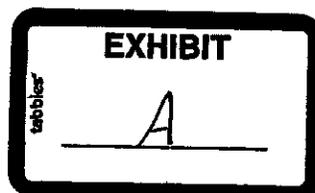
Ronald D. Barber, Esq.  
4 Gateway Center Suite 2200  
444 Liberty Avenue  
Pittsburgh PA 15222

Daniel C. Garfinkel, Esq.  
One Oxford Centre 20<sup>th</sup> Floor  
301 Grant Street  
Pittsburgh PA 15219

DEPT OF COURT RECORDS  
CIVIL FAMILY DIVISION  
ALLEGHENY COUNTY PA

16 MAY 23 AM 11:52

EJ/PJ



## DECISION UNDER 65 P.S. § 67.1302(a)

O'BRIEN, J.

Before the Court is the Municipality of Mt. Lebanon's Petition for Judicial Review of a Final Determination of the Pennsylvania Office of Open Records. A hearing was held before me on April 11, 2016, on this case and SA 15 – 963. The cases, which were consolidated for hearing in this Court, involve requests under the Right-to-Know Law. The records sought in each case deal with the same subject matter, but cover different time periods. <sup>1</sup>

I adopt section III of my Decision at SA 15 – 963 regarding Mt. Lebanon's assertion of the Personal Security exemption. Regarding the Donation exemption, I adopt section IV of said Decision, except that this exemption does not protect the e-mail sent to the Mt. Lebanon Commission on October 12, 2015, at 2:41 p.m.. The sender of this e-mail offers neither her time nor the use of her land, but simply expresses support for the deer culling program. <sup>2</sup> Mt. Lebanon may redact the sender's e-mail address, telephone numbers, fax number and information related to her place of employment. <sup>3</sup>

BY THE COURT

O'Brien J.  
5/23/16

<sup>1</sup> Prior to the hearing on April 11, 2016, I conducted an *in camera* review of the records. A brief description of the records is found at pages 11-14 of the hearing transcript.

<sup>2</sup> This e-mail is discussed on pages 11-12 of the hearing transcript. Mt. Lebanon concedes this is an accurate characterization of the e-mail. See hearing transcript, page 11.

<sup>3</sup> The Requester does not object to the redaction of this information.

**Allegheny County - Department of Court Records  
Civil/Family Division Docket Report**

SA-16-000236

\*\*\*CONSOLIDATED AT SA-15-000963\*\*\*

Run Date: 06/21/2016  
Run Time: 02:15:41 PM

<i>Court Type:</i>	<b>Arbitration</b>	<i>Related Cases:</i>	<b>SA-15-000963,</b>
<i>Case Type:</i>	<b>Office of Open Records Appeal</b>	<i>Jury Requested:</i>	<b>No</b>
<i>Judge:</i>	<b>O'Brien W. Terrence</b>	<i>Amount In Dispute:</i>	<b>\$ .00</b>
<i>Current Status:</i>	<b>Reply</b>		

**Parties**

- Litigants -

ID	LName	FName	MI	Type	Address	Phone	Attorney
@1315470	Municipality of Mount Lebanon	--	--	Plaintiff	710 Washington Road Pittsburgh PA 15228	--	Weis Philip J.,
@1963611	Pennsylvania Office of Open Records	--	--	Interested Party	Commonwealth Keystone Building 400 North Street, 4th floor Harrisburg PA 17120-0225	--	--
@123419	Gillen	Elaine	--	Defendant	735 Valle Vista Avenue Pittsburgh PA 15234	--	--

- Attorney -

ID	LName	FName	MI	Type	Address	Phone
44846	Weis	Philip	J.	Plaintiff's Attorney	Buchanan Ingersoll P.C. 301 Grant Street, 20th floor One Oxford Centre Pittsburgh PA 15219	--
52734	Barber	Ronald	D.	Attorney	Four Gateway Center Suite 220 444 Liberty Avenue Pittsburgh PA 15222	(412)2815423

- Non Litigants -

ID	LName	FName	MI	Type	Address	Phone
ACDCR	Allegheny County Department of Court Records	--	--	Department of Court Records	414 Grant Street Pittsburgh PA 15219	--
JOBRIEN	O'Brien	W.	Terrence	Judge	705 City County Building Pittsburgh PA 15219	(412)3505898

**Docket Entries**

Filing Date	Docket Type	Docket Text	Filing Party
		<div style="border: 2px solid black; padding: 5px; display: inline-block;"> <b>EXHIBIT</b>  <u>    B    </u> </div>	

03/22/2016	Petition Initiating Case		Municipality of Mount Lebanon
04/05/2016	Copy of Order of Court	Dated on 04/05/16. Order that Motion to Consolidate is GRANTED. The action filed at Docket SA-15-000963 is hereby consolidated w/ the action at Docket sa-16-000236. Hearing has been scheduled for 04/11/16 at 10:00 AM. O'Brien, J. Copies sent on 04/06/16 (ORIGINAL ORDER ON SA-15-000963)	O'Brien W. Terrence
04/11/2016	Writ of Certiorari	Issued and sent on 04/11/2016.	Allegheny County Department of Court Records
05/23/2016	Decision	Under 65 PS. 67.1302 (a). Dated 05/23/16 O'Brien J. Copies sent 05/23/2016.	O'Brien W. Terrence
06/13/2016	Motion for Reconsideration		Gillen Elaine
06/17/2016	Reply	To respondents's motion for reconsideration	Municipality of Mount Lebanon

## Allegheny County - Department of Court Records

### Civil/Family Division Docket Report

SA-15-000963

Municipality of Mt. Lebanon vs Gillen

Run Date: 06/27/2016  
Run Time: 10:55:53 AM

Court Type:	Arbitration	Related Cases:	SA-16-000236,
Case Type:	Office of Open Records Appeal	Jury Requested:	No
Judge:	O'Brien W. Terrence	Amount In Dispute:	\$ .00
Current Status:	Notice of Appeal to Higher Court		

### Parties

#### -- Litigants --

ID	LName	FName	MI	Type	Address	Phone	Attorney
@1315470	Municipality of Mount Lebanon	--	--	Plaintiff	710 Washington Road Pittsburgh PA 15228	--	Weis Philip J.,
@991464	Municipality of Mt. Lebanon	--	--	Plaintiff	710 Washington Road Pittsburgh PA 15228	--	Garfinkel Daniel, Weis Philip J.,
@1691452	Pennsylvania Office of Open Records	--	--	Interested Party	No Default Address Available	--	--
@1963611	Pennsylvania Office of Open Records	--	--	Interested Party	Commonwealth Keystone Building 400 North Street, 4th floor Harrisburg PA 17120-0225	--	--
@123419	Gillen	Elaine	--	Defendant	735 Vallevista Avenue Pittsburgh PA 15234	--	--
@2190860	Gillen	Elaine	--	Defendant	735 Vallevista Avenue Pittsburgh PA 15234	--	Barber Ronald D.,

#### -- Attorney --

ID	LName	FName	MI	Type	Address	Phone
44846	Weis	Philip	J.	Plaintiff's Attorney	Buchanan Ingersoll P.C. 301 Grant Street, 20th floor One Oxford Centre Pittsburgh PA 15219	--
52734	Barber	Ronald	D.	Defendant's Attorney	Four Gateway Center Suite 220 444 Liberty Avenue Pittsburgh PA 15222	(412)2815423
92037	Garfinkel	Daniel	--	Attorney	Buchanan Ingersoll One Oxford Centre 301 Grant Street, 20th Floor Pittsburgh PA 15237	--
316820	Knafelc	Edward	A.	Attorney	No Default Address Available	(412)2815423
202103	Moore	Gretchen	E	Attorney	No Default Address Available	(412)2815423

#### -- Non Litigants --

ID	LName	FName	MI	Type	Address	Phone
@914524	Zwick	Denise	Murphy	Court Reporter	Court Reporter Pittsburgh PA 15219	--

ACDCR	Allegheny County Department of Court Records	--	--	Department of Court Records	414 Grant Street Pittsburgh PA 15219	--
JOBRIEN	O'Brien	W.	Terrence	Judge	No Default Address Available	(412)3505898
JOBRIEN	O'Brien	W.	Terrence	Judge	No Default Address Available	(412)3505898

### Docket Entries

Filing Date	Docket Type	Docket Text	Filing Party
12/18/2015	Petition Initiating Case		Municipality of Mt. Lebanon
12/22/2015	Praecipe for Appearance	Ronald D.Barber,Gretchen E.Moore & Edward A.Knafelc,Esquires.	Gillen Elaine
12/29/2015	Writ of Certiorari	Issued and sent on 12/29/15. Notices Mailed 12/29/15	Allegheny County Department of Court Records
12/30/2015	Answer and New Matter		Gillen Elaine
01/15/2016	Certified Record		Pennsylvania Office of Open Records
02/23/2016	Order of Court	Dated 02/23/16, hearing scheduled on the Petition for Judicial Review is continued to 04/11/16 at 10:00 before the undersigned. O'Brien J. Copies mailed 2/23/16.	O'Brien W. Terrence
03/22/2016	Petition Initiating Case		Municipality of Mount Lebanon
04/05/2016	Motion & Order	Dated on 04/05/16. Order that Motion to Consolidate is GRANTED. The action filed at Docket SA-15-000963 is hereby consolidated w/ the action at Docket sa-16-000236. Hearing has been scheduled for 04/11/16 at 10:00 AM. O'Brien, J. Copies sent on 04/06/16	Gillen Elaine

04/05/2016	Copy of Order of Court	Dated on 04/05/16. Order that Motion to Consolidate is GRANTED. The action filed at Docket SA-15-000963 is hereby consolidated w/ the action at Docket sa-16-000236. Hearing has been scheduled for 04/11/16 at 10:00 AM. O'Brien, J. Copies sent on 04/06/16 (ORIGINAL ORDER ON SA-15-000963)	O'Brien W. Terrence
04/08/2016	Praecipe for Appearance	of Daniel C. Garfinkel, Esquire	Municipality of Mt. Lebanon
04/26/2016	Notice of Proof	Of proceeding hearing on Petitions under the Right to know Law on April 11,2016 by the Honorable Judge W.T. O'Brien	Zwick Denise Murphy
04/26/2016	Transcript of Proceedings		Zwick Denise Murphy
04/29/2016	Certification	Of record filed on the behalf of the defendant	Gillen Elaine
05/23/2016	Decision	Under 65 PS. 67.1302 (a). Dated 05/23/16 O'Brien J. Copies sent 05/23/2016.	O'Brien W. Terrence
06/22/2016	Notice of Appeal to Higher Court	To Commonwealth Court from the decision entered on 5/23/16. Proof of service filed. Request for transcript filed.	Gillen Elaine

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing AMENDED NOTICE OF APPEAL was served by E-mail and First Class Mail, U.S. Mail, postage prepaid, this 27<sup>th</sup> day of June, 2016, on the following:

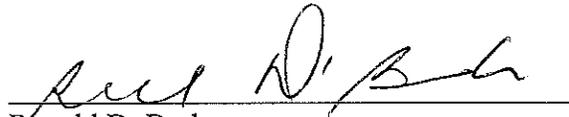
Brendan P. Lucas, Esquire  
Buchanan Ingersoll & Rooney, PC  
One Oxford Centre  
301 Grant Street, 20<sup>th</sup> Floor  
Pittsburgh, PA 15219-1410  
[brendan.lucas@bipc.com](mailto:brendan.lucas@bipc.com)  
*(Counsel for Appellant  
The Municipality of Mt. Lebanon)*

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)*

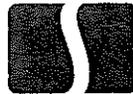
The Honorable W. Terrence O'Brien  
Civil Division  
705 City-County Building  
414 Grant Street  
Pittsburgh, PA 15219

Linda L. Kelly  
Court Administrator  
300 Frick Building  
437 Grant Street  
Pittsburgh, PA 15219

STRASSBURGER McKENNA GUTNICK  
& GEFSKY



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



**Strassburger McKenna  
Gutnick & Gefsky**

ATTORNEYS AT LAW | SINCE 1919

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444 Liberty Avenue, Pittsburgh, PA 15222  
P 412.281.5423 F 412.281.8264  
www.smgglaw.com

rbarber@smgglaw.com

June 27, 2016

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JUN 29 2016

OFFICE OF OPEN RECORDS

Brendan P. Lucas, Esquire  
Buchanan Ingersoll & Rooney, PC  
One Oxford Centre  
301 Grant Street, 20<sup>th</sup> Floor  
Pittsburgh, PA 15219-1410

**Re: The Municipality of Mt. Lebanon v. Elaine Gillen, et al.  
No. SA 15-000963  
And  
The Municipality of Mt. Lebanon v. Elaine Gillen, et al.  
No. SA 16-000236/Consolidated at No. SA 15-000963**

Dear Mr. Lucas:

Please find enclosed the Amended Notices of Appeal that were filed today with the Department of Court Records in the above-referenced matters.

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

Very truly yours,

Ronald D. Barber

RDB/km  
Enclosures

cc:  Jill S. Wolfe, Appeals Officer, Office of Open Records (w/encl.)  
The Honorable W. Terrence O'Brien (w/encl.)  
Linda L. Kelly, Court Administrator (w/encl.)  
Edward A Knafelc, Esquire (w/out encl.)  
Gretchen E. Moore, Esquire (w/out encl.)  
Elaine Gillen (w/encl.)