

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

THE MUNICIPALITY OF MT. LEBANON, :

Appellee, :

v. :

ELAINE GILLEN, :

Appellant, :

v. :

PENNSYLVANIA OFFICE OF OPEN
RECORDS, :

Interested Party. :

Commonwealth Court No. 1020 CD 2016
Related to Court No. 1021 CD 2016

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AUG 31 2016

OFFICE OF OPEN RECORDS

DESIGNATION OF CONTENTS OF REPRODUCED RECORD

1. Relevant Docket Entries.
2. Right to Know Request made on July 30, 2015 by Elaine Gillen to the Municipality of Mt. Lebanon.
3. The Municipality of Mt. Lebanon's response to Elaine Gillen dated September 3, 2015 granting in part and denying in part the request.
4. Right to Know Law Appeal of Denial, Partial Denial, or Deemed Denial form submitted to the Office of Open Records on September 18, 2015.
5. Final Determination of the Office of Open Records, granting access to all documents requested by Elaine Gillen's July 30, 2015 Right to Know Request (Docket No. AP 2015-1938) dated November 24, 2015.
6. Right to Know Request made on November 25, 2015 by Elaine Gillen to the Municipality of Mt. Lebanon.

7. Right to Know Law Appeal of Denial, Partial Denial, or Deemed Denial form submitted to the Office of Open Records on January 6, 2016.

8. Final Determination of the Office of Open Records, granting access to all documents requested by Elaine Gillen's November 25, 2015 Right to Know Request (Docket No. AP 2016-0023) dated February 23, 2016.

9. Petition for Judicial Review of a Final Determination of the Pennsylvania Office of Open Records submitted by the Municipality of Mt. Lebanon in regards to the Final Determination of the Office of Open Records (AP 2015-1938) dated November 24, 2015 (SA-15-000963).

10. Petition for Judicial Review of a Final Determination of the Pennsylvania Office of Open Records submitted by the Municipality of Mt. Lebanon in regards to the Final Determination of the Office of Open Records (AP 2016-0023) dated February 23, 2016 (SA-16-000236).

11. Order dated April 5, 2016, granting Motion to Consolidate SA 15-000963 and SA 16-000236.

12. Decision Under 65 P.S. §67.1302(a) by the Honorable W. Terrence O'Brien (SA 16-000963).

13. Decision Under 65 P.S. §67.1302(a) by the Honorable W. Terrence O'Brien (SA 16-000236).

STATEMENT OF ISSUES

Appellant, Elaine Gillen, requests that the Commonwealth Court review the Decision/Order of the Court of Common Pleas of Allegheny County dated May 23, 2016 which held that the great majority of records requested by Appellant under the Pennsylvania Right-to-Know Law were exempted from disclosure under 65 P.S. §67.708(b)(13) relating to donations.

Appellant contends that the Court, by its Decision/Order, erred in:

- Failing to narrowly construe the exemption relating to donations at 65 P.S. §67.708(b)(13).
- Failing to place the burden of proving that the records requested were exempt from public access on the Municipality of Mt. Lebanon.
- Determining that a landowner permitting the Municipality of Mt. Lebanon to have temporary access to their property constitutes a donation under 65 P.S. §67.708(b)(13).

WHEREFORE, Appellant prays that the Court review and Reverse the Decision/Order the Court of Common Pleas of Allegheny County dated May 23, 2016.

STRASSBURGER McKENNA GUTNICK
& GEFSKY

By: /s/Ronald D. Barber

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July 8, 2016

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OFFICE OF OPEN RECORDS

**Re: The Municipality of Mt. Lebanon v. Gillen, et al.
No. 1020 CD 2016
And Relating to
The Municipality of Mt. Lebanon v. Gillen, et al.
No. 1021 CD 2016**

Dear Sir/Madam:

Please find enclosed the and original and one (1) copy of the Designation of Contents of Reproduced Record that was electronically filed today in the above-referenced matter.

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

Very truly yours,

Kim Maiorano
Legal Assistant to
Ronald D. Barber, Esq.

/km
Enclosures

cc: Brendan P. Lucas, Esquire
Mill Smith Wolfe, Esquire
Elaine Gillen