EXIT N.P.C
8/28/2024

IN THE COURT OF COMMON PLEAS OF NORTHAMPTON COUNTY,
PENNSYLVANIA
CIVIL ACTION – LAW

BOROUGH OF BATH,		:	
	Petitioner	:	**NO. C-48-CV-2023-09734**
		:	**C-48-CV-2023-10559**
v.		:	**C-48-CV-2024-01039**
		:	
MICHAEL LONG,		:	
	Respondent	:	

FILED
AUG 28 P 3:23
CIVIL DIVISION
COMMON PLEAS
NORTHAMPTON COUNTY, PA

ORDER OF COURT

AND NOW, this 28th day of August, 2024, upon the Court's review of the record in the above-captioned matters, arising out of Appeals and Petitions for Review under the Pennsylvania Right to Know Law,[1] captioned above, and assigned to the undersigned on the Argument List of August 20, 2024, it is hereby **ORDERED** and **DECREED** as follows:

1. The Appeal and Petition for Review filed at Docket Number 2023-9734 is **DISMISSED** as moot.[2] The appealed-from determination by the Pennsylvania Office of Open Records (OOR), dated November 3, 2023, has been superseded by the OOR determination dated January 12, 2024, upon reconsideration requested by the Borough of Bath. The interests of judicial economy do not favor piecemeal review, and Petitioner, Borough of Bath, is not

[1] Procedurally, we note these matters all arise from one RTKL request initiated by Respondent/Requester, Michael Long, on May 17, 2023, seeking written communications between borough council members. The Borough responded by providing responsive emails on June 23, 2023. Mr. Long filed an appeal to the Office of Open Records (OOR) on July 11, 2023. OOR issued a final determination on November 3, 2023. Borough filed a Petition for Reconsideration on November 17, 2023. Borough filed the appeal at docket number 2023-9734 on December 1, 2023. On the same date, OOR issued a response partially granting and partially denying reconsideration. Borough filed an appeal at docket number 2023-10559, arising from the OOR's December 1, 2023 response. On January 12, 2024, OOR issued its "Final Determination Upon Reconsideration." Borough filed an appeal from the January 12, 2024 determination at docket number 2024-1039.

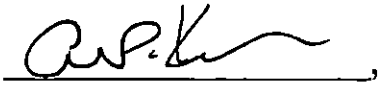
[2] Also at docket number 2023-9734, the Borough of Bath filed a Motion to Strike the Answer, Preliminary Objections, and Counterclaim, filed by Requester, Michael Long, as well as a Motion to Strike Requester's Praecipe to Strike Appeal. While Requester's filings are procedurally improper and the Borough's Motions would otherwise be granted, based upon the above finding that the appeal at 2023-9734 is moot in its entirety, we need not rule on the Borough's Motions.

prejudiced by proceeding solely on the appeal from the January 12, 2024 determination, docketed at 2024-1039.[3]

2. The Appeal and Petition for Review filed at Docket Number 2023-10559 is similarly **DISMISSED** as moot.[4] The appealed-from response by the OOR, dated December 1, 2023,[5] is not a final determination and has been superseded by the OOR final determination dated January 12, 2024. Again, Petitioner, Borough of Bath, is not prejudiced by proceeding solely on the appeal from the January 12, 2024 determination, docketed at 2024-1039.[6]

3. At Docket Number 2024-1039, upon review of the Motion to Quash Cross-Appeal, filed by Petitioner, Borough of Bath, on March 18, 2024, and the brief in support thereof, filed on July 29, 2024, and it appearing that the cross-appeal by Requestor, Michael Long, is facially untimely,[7] the Motion to Quash Cross-Appeal is **GRANTED**.

BY THE COURT:



ABRAHAM P. KASSIS, J.

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[3] We note the January 12, 2024 determination addresses the remaining issue arising from the November 3, 2023 determination – i.e. whether the Borough is required to provide factual information contained within otherwise privileged communications.

[4] Also at docket number 2023-10559, the Borough of Bath filed a Motion to Strike the Answer, Preliminary Objections, and Counterclaim, filed by Requester, Michael Long, as well as a Motion to Strike Requester's Motion to Quash Appeal. Based upon the above finding that the appeal at 2023-10559 is moot in its entirety, we need not rule on the Borough's Motions.

[5] Stating that the OOR would grant in part and deny in part the Petition for Reconsideration filed by the Borough on November 17, 2023 from the OOR's Final Determination dated November 3, 2023.

[6] We note the January 12, 2024 determination addresses the remaining issue arising from the November 3, 2023 determination – i.e. whether the Borough is required to provide factual information contained within otherwise privileged communications.

[7] The OOR issued its final determination on January 12, 2024, and the Borough filed its appeal therefrom on February 9, 2024. Mr. Long did not file his cross-appeal until March 1, 2024, outside of the statutory appeal period. Mr. Long further does not appear to dispute that his cross-appeal was untimely, as he did not file a response to the Borough's motion, and instead filed a motion seeking nunc pro tunc relief, which has not yet been praeciped for decision.