IN THE COURT OF COMMON PLEAS
OF ADAMS COUNTY, PENNSYLVANIA

COUNTY OF ADAMS, **Petitioner,**	:	
	:	**Docket No: 2019-SU-907**
v.	:	
PENNSYLVANIA OFFICE OF OPEN RECORDS, and RYAN McFARLAND, and PENNSYLVANIA AFL-CIO, **Respondents.**	:	

MEMORANDUM OF LAW IN SUPPORT OF

PETITION FOR REVIEW/APPEAL OF FINAL DETERMINATION

OF THE PENNSYLVANIA OFFICE OF OPEN RECORDS

This memorandum addresses two legal issues outlined in Petitioner's appeal from the Office of Open Records' ("OOR") Final Determination dated July 2nd, 2019: (1) That the OOR failed to employ a constitutionally-adequate balancing test where privacy interests were implicated, and (2) that the County may not be required to disclose private information where the OOR failed to afford affected individuals basic due process.

I. Legal Backdrop: The Road to *PSEA II*.

As the following Sections detail, *Pennsylvania State Education Association v. Commonwealth, Dept. of Community and Economic Development,* 148 A.3d 142 (Pa. 2016) (hereafter "*PSEA II*"[1]) remains the determinative Pennsylvania Supreme Court decision for

[1] The Supreme Court actually reviewed the matter a total of 3 times, beginning in 2010 when it affirmed the preliminary injunction. However, this Memo refers to *PSEA v. Commonwealth,* 50 A.3d 1263 (Pa. 2012) as "*PSEA I*" and *PSEA v. Commonwealth,* 148 A.3d 142 (Pa. 2016) as "*PSEA II*" because the Court considered the substantive constitutional issues involved in this case in those two opinions.

purposes of this appeal, bearing striking factual similarity to both of the issues outlined herein. Therefore, it is helpful to understand the procedural context of the decision.

The road to *PSEA II* began in 2009 when the Pennsylvania State Education Association ("PSEA") and fourteen of its members sued the OOR, its Executive Director, and the PA Department of Community and Economic Development for preliminary and permanent injunctive relief to prevent the release of the home addresses of public school employees. *Id.* at 144. PSEA complained that several school districts had received requests for names and addresses of employees and had released them pursuant the Right-To-Know Act without notice or legal recourse for the employees to protect personal security interests. *Id.* An initial injunction was issued, staying the release of any home addresses and requiring the OOR to notify school districts of the existence of this litigation, but the case was subsequently dismissed by the Commonwealth Court in a divided opinion, ruling that PSEA must sue the individual districts and not the OOR, which was merely a quasi-judicial agency and not a proper defendant to the action. See *PSEA v. Commonwealth,* 4 A.3d 1156 (Pa.Cmwlth. 2010). That decision, however, was vacated and remanded by the Pennsylvania Supreme Court in 2012 on procedural grounds, with the Court ruling that the OOR was an indispensable party to the suit, and noting that the inadequate due process protections afforded the employees by the OOR create "unique circumstances" demanding that the agency "be haled into court to address core and colorable issues connected with such treatment at the behest of affected and their associations." See *PSEA v. Commonwealth,* 50 A.3d 1263, 1276 (Pa. 2012) (hereinafter "*PSEA I*").

On remand, the Commonwealth Court found that the OOR's procedure in ordering the release of employee's addresses without notice and legal recourse violated the employees' due process rights and the RTKL's statutory intent. *PSEA v. Commonwealth,* 110 A.3d 1076, 1085-6

(Pa.Cmwlth. 2015) ("A person with a direct interest neither has a right to appeal to the OOR nor the right to intervene in the requester's appeal...This lack of procedural due process prior to granting access to a record essentially eviscerates the General Assembly's intent to protect an individual from the risk of personal harm or risk to his or her personal security that may occur by the disclosure of such a record."). However, it also found that there was no reasonable expectation of privacy in home addresses. *Id.* (citing *Office of Lieutenant Governor v. Mohn,* 67 A.3d 123 (Pa.Cmwlth. 2013); *Office of Governor v. Raffle* 65 A.3d 1105 (Pa.Cmwlth. 2013)).

On appeal for a second time, the Supreme Court agreed with the Commonwealth Court that due process was wholly lacking (noting that the OOR had done nothing to address the "almost complete lack of procedural due process" since 2012 when the Court first raised the issue), but rejected the holding that there was no right to privacy in home addresses, finding instead that Article 1, Section 1 of the Pennsylvania Constitution guaranteed a personal right to informational privacy, including one's home address, thus requiring the OOR to perform a constitutional balancing test of the interests. *PSEA II.*

It is within this legal context that this Memo outlines Petitioner's constitutional concerns.

II. The OOR failed to employ a constitutionally-adequate balancing test when ordering the release of 332 elected official's private home addresses.

The OOR has ordered the County to disclose 332 elected officials' private home addresses, see Final Determination dated July 2nd, 2019, citing public interest in verifying statutory residency requirements, but *without* any evidence by the Requester of any residency violations

by any public officials. In support, the OOR takes the cursory position that "...because the municipal and school district officials are required to satisfy residency requirements to be elected to their positions under Pennsylvania law, the public's interest in disclosure outweighs the privacy interest and, as a result, the County may not withhold the officials' home addresses that are responsive to the Request." Final Determination, pg. 6-7. Without any evidence of residency violations, the OOR's finding can be distilled into the following troubling proposition: The mere existence of a legal residency requirement eviscerates any public official's right to privacy in his/her home address.

a. Article 1, Section 1 of the Pennsylvania Constitution guarantees all citizens, public or private, a right to informational privacy.

The Pennsylvania Supreme Court has repeatedly recognized a constitutional right to "informational privacy," emanating from Article 1, Section 1 of the Pennsylvania Constitution. *PSEA II* at 144 (citing *Sapp Roofing Co. v. Sheet Metal Workers' Int'l Ass'n, Local Union No. 12,* 713 A.2d 627 (Pa. 1998) (plurality); *Tribune-Review Publ. Co. v. Bodack,* 961 A.2d 110 (Pa. 2008); *Pa. State Univ. State Employees' Retirement Board,* 935 A.2d 530 (Pa. 2007)); Pa. Const. Art. 1, Sect. 1.

"Informational privacy," broadly speaking, is the right of the individual to control access to, or the dissemination of, personal information about himself or herself. *Id.* at 150. The U.S. Supreme Court first acknowledged specific rights to informational privacy in *Whalen v. Roe,* 429 U.S. 589 (1977), including an individual's "interest in avoiding disclosure of personal matters" and an "independence in making certain kinds of important decisions. *PSEA II* at 150 (citing

Whalen, 598-601). The *Whalen* Court recognized the troubling privacy implications of maintaining vast amounts of personal data contained in governmental drug prescription databases and the need of legal protections against government disclosure:

> We are not unaware of the threat to privacy implicit in the accumulation of vast amounts of personal information in computerized data banks or other massive government files...The right to collect and use such data for public purposes is typically accompanied by a concomitant statutory or regulatory duty to avoid unwarranted disclosures.

Id. (quoting *Whalen* at 605).

In Pennsylvania, informational privacy rights are acknowledged to be part of the "inherent rights of mankind" guaranteed under Article 1, Section 1. *Id.* at 151 (citing Pa. Const. Art. 1, Sect. 1). Not only has the Pennsylvania Supreme Court held that Article 1, Section 1 protects the same rights to informational privacy as those recognized by the U.S. Supreme Court in *Whalen,* see *In re June 1979 Allegheny Cty. Investigating Grand Jury,* 415 A.2d 73 (Pa. 1980), but it has gone further to hold that Article 1, Section 1 provides even "more rigorous and explicit protection for a person's right to privacy than does the United States Constitution. See *In re "B,"* 394 A.2d 419 (Pa. 1978).

As noted above, in 2016, the Supreme Court once again affirmed the constitutional right to so-called "informational privacy" in the context of broad Right-To-Know requests for public school employees' home addresses, holding that "constitutionally protected privacy interests must be respected even if no provision of the RTKL speaks to protection of those interests." *Id.,* 148 A.3d at 156-8. In doing so, the Court explicitly overturned a trilogy of Right-To-Know cases, namely *Sapp Roofing Company, Inc. v. Sheet Metal Workers' International Association,* 713 A.2d 627 (Pa. 1998), *Pennsylvania State University v. State Employees' Retirement Bd.,* 935 A.2d 530 (Pa. 2007) and *Tribune-Review Publishing Co. v. Bodack,* 961 A.2d 110 (Pa. 2008),

which had erroneously found the locus of privacy rights in the Right To Know Act's statutory language, rather than in Article 1, Section 1. The Court therefore concluded that "the right to informational privacy is guaranteed by Article 1, Section 1 of the Pennsylvania Constitution, and may not be violated unless outweighed by a public interest favoring disclosure." *PSEA II* at 158.

Additionally, it has been suggested by Mr. McFarland that privacy interests are diminished if the private information is accessible through other means.[2] See Exhibit A of Petition. However, as the U.S. Supreme Court recognized, "[a]n individual's interest in controlling the dissemination of information regarding personal matters does not dissolve simply because that information may be available to the public in some form." *Dep't of Defense v. Federal Labor Relations Auth.*, 510 U.S. 487 (1994). In this digital age, it is extremely difficult to anticipate the source of information dissemination, but that difficulty does not lessen one's privacy interests in that information, and certainly not when there is a constitutional obligation by the government, as a repository of vast amounts of personal data, to protect it from disclosure. Thus, unless the affected official personally authorizes the dissemination of his or her information for particular purposes, there continues to exist a reasonable expectation of privacy in that information.

It has also been suggested by the respondents that public officials, by virtue of their office, have a diminished or nonexistent right to privacy. This suggestion, however, is wholly without legal precedent. The case law has never made a distinction between private and public citizens as it concerns privacy interests, nor does Article 1, Section 1 by its own terms. As this Court is

[2] Undersigned counsel learned that after filing this appeal to the Court of Common Pleas, the AFL-CIO sent Mr. McFarland to the Adams County Courthouse in an attempt to retrieve several home addresses of elected officials directly from our Elections and Voter Registration Office to circumvent the Right-To-Know process. Angie Crouse, Director of Elections and Voter Registration, later reported the incident to the Solicitor's Office, knowing that there was ongoing litigation about this very issue, but nevertheless turned over some home addresses, unsure of what to do. It is assumed this stunt was designed to prove that the home addresses are accessible through other means.

aware, the only constitutional distinction drawn by the courts between public and private citizens has been with regard to 1st Amendment free speech protections, and defamation in particular. See, e.g., *New York Times v. Sullivan,* 376 U.S. 254 (1964) (establishing "actual malice" standard for public officials suing for defamation); *Gertz v. Robert Welch, Inc.,* 418 U.S. 323 (1972). This body of case law concerning defamation, however, should not be confused or conflated with the right to privacy guaranteed to every citizen, regardless of the nature of their job. Rather than establish a bright-line rule depriving public officials of a fundamental right to privacy, the courts have found that the Constitution requires a careful balancing of countervailing interests. *PSEA II* at 156.

b. The right to privacy requires a constitutionally-adequate balancing test of competing interests.

Even assuming there is a sincere interest by the AFL-CIO in the verification of residency requirements, it must be carefully balanced against the constitutional privacy rights of 332 individuals. The government has a constitutional obligation to protect the constitutional guarantees afforded to its citizens. Our courts have developed a "body of case law requiring governmental agencies to respect the constitutional privacy rights of citizens when disseminating requested information." *PSEA II* at 156. This obligation not only applies to the County (which is why it has refused to release the addresses), but also to the OOR as a "quasi-judicial agency." Given the affirmative duty of the government to respect the privacy interests of its citizens, the Supreme Court found that the Pennsylvania Constitution requires a "balancing test before the

disclosure of any personal information," including home addresses. *Id.* It is the contention of the County that the OOR failed to employ a constitutionally-adequate balancing test in this case.

Unfortunately, examples of informational privacy balancing tests under Article 1, Section 1 are not as prevalent in our case law as analyses of competing interests under the sister privacy guarantees of Article 1, Section 8 in the criminal context. Nevertheless, the examples that do exist demonstrate that the mere existence of a competing interest, even a strong competing interest, is not enough to overcome one's privacy guarantees. In *In re 'B'*, 394 A.2d 419 (Pa. 1978), for example, our Supreme court addressed whether a mother's psychiatric records could be subpoenaed in proceedings related to the placement of her juvenile son. The Court, balancing the interests, ruled that even though the information would have been useful in the placement proceedings, the mother's "right of privacy...must prevail in this situation." *Id.* at 426.

In *Denoncourt v. Com., State Ethics Comm'n,* 470 A.2d 945 (Pa. 1983) (plurality), in which a statute required detailed financial information by every public official and their immediate family, a plurality of the Court again affirmed that a proper assessment of privacy claims requires a balancing of "the nature of the privacy right and its important relationship to other basic rights." *Denoncourt* at 948. Because the government proffered no significant interest or purpose in such disclosure in private financial information, the plurality found the statutory provision to be unconstitutional. *Id.* at 949.

As the Court recognized in *PSEA II,* in cases where the locus of privacy rights was to be found in the RTKA, and not the Constitution, even statutorily-based privacy interests have prevailed over a variety of public requests for personal information. *PSEA II* at 155 ("We emphasized, however, that if the requests had sought personal information implicated by rights

to informational privacy, like home addresses or telephone numbers, 'we would have greater difficulty concluding that the public interest asserted here outweighs those basic rights of privacy.") (citing *Times Publishing, supra,* at 359.)

A constitutionally-sufficient balancing test requires more than a mere recitation of competing interests, which is all the Final Determination amounts to. It requires more than the OOR's reliance on "magic words" by a requester, such as "residency requirement." The Constitution requires a sincere weighing of those competing interests, but the OOR has wholly failed to accomplish this, as evidenced by its lack of administrative hearing to determine relevant facts from the parties, and its complete lack of interest in the testimony of the 332 elected officials. Such constitutional balancing must necessarily be fact-specific, but the OOR has ventured to obtain none of the relevant facts, including whether Requester has any evidence of 332 residency violations that might warrant public disclosure of 332 private home addresses or, perhaps more importantly, whether any of the 332 affected individuals have any objections (such as personal security) that might outweigh such public disclosure.

The Pennsylvania Supreme Court recognizes that the Article 1, Section 1 right to privacy in the civil context is analogous to that of Article 1, Section 8 in the criminal context, and offers "more rigorous and explicit" protection than the federal constitution. *PSEA II* at 152. Thus, it is suggested that this Court look to the well-established balancing tests employed in the criminal context under Article 1, Section 8 and the Fourth Amendment to resolve privacy claims. In the criminal realm, personal privacy interests often compete with the "public interest" to maintain order and prevent crimes against persons and property. However, the mere *existence* of statutory requirements to conduct oneself in accordance with the law (e.g. Title 18, the "Crimes Code") has *never* superseded federal or state constitutional privacy protections. It is not enough, for

example, for the government to merely cite a criminal statute that a person may not possess marijuana in order to justify invasion of his privacy and search of his vehicle or home. It is similarly not enough for the government to merely believe or suspect that a crime has been committed to justify intrusion. See, e.g., *Aguilar v. Texas,* 378 U.S. 108 (1964) (suspicion, belief, or mere conclusion is not enough to support a search warrant under 4th Amendment). Rather, the federal and state constitutions require, *at a minimum,* that the government articulate specific bases (i.e., probable cause or reasonable suspicion) which would lead a reasonable person to believe that the law had been violated before privacy rights may be invaded. As the next subsection shows, Requester failed to provide any evidence that would lead a reasonable person to believe the residency requirement had been violated.

c. The OOR, without a hearing or evidence, is not capable of adequately balancing the privacy interests of 332 individuals against the vague interest of Mr. McFarland in residency requirements.

Without a hearing or meaningful due process for the 332 individuals who possess a significant privacy interest in the disclosure of their home addresses, the OOR cannot possibly weigh the competing interests as required by the Constitution. *PSEA II* is factually comparable to the instant case in many respects, as it similarly involved the generic request of home addresses from public officials, and affected individuals were not afforded the right to a hearing. The Court in *PSEA II*, applying a constitutional balancing test to the OOR's desire to release potentially thousands of public school employees' home addresses (also without hearing), opined that it "perceive[s] no public benefit or interest to disclosure in response to such generic requests

for irrelevant personal information of these particular public employees who have undertaken the high calling of educating our children." *Id.* at 158. Indeed, the Court recognized that "[t]he disclosure of personal information such as home addresses reveals little, if anything, about the working of government." *Id.*, at 145.

As noted earlier, the OOR and the Requester asserts that there is a public interest in verifying residency requirements. Here, however, there was no evidence presented to the OOR or articulable basis offered by Requester suggesting that a residency violation had occurred that might outweigh the individual privacy interests of 332 elected officials. Nor did the OOR seek to hold a hearing to establish any facts relevant to Requester's purported "concern" about residency. Again, as the case law identified in the previous subsection illustrates, it has never been sufficient for the government (or a requester) to simply identify a competing interest to override privacy rights. A baseless desire from the government to "verify" compliance with the law would never survive a legal challenge in the criminal context and should not survive in the civil context when there are competing "rigorous and explicit" constitutional privacy interests at stake.

Given that Requester did not seize upon the idea of verifying residency requirements until *after* the County suggested a hypothetical involving such a claim in an email on appeal, see Exhibit A of Petition, and given that the Requester is acting on behalf of the AFL-CIO, a political lobbying organization, it is reasonable to conclude that the AFL-CIO is using the residency requirement as a pretext to have the County populate its mailing lists. This is the exact situation the Supreme Court warned against in *PSEA II:*

> ...nothing in the RTKL suggests that is was ever intended to be used as a tool to procure personal information about private citizens or, in the worst sense, to be generator of mailing lists. Public agencies are not clearinghouses of "bulk" personal information

> otherwise protected by constitutional privacy rights. While the goal of the legislature to make more, rather than less, information available to public scrutiny is laudable, the constitutional rights of the citizens of this Commonwealth to be left alone remains a significant countervailing force.

148 A.3d at 158.

The government which establishes statutory residency requirements may not turn around and then use the existence of such requirements to violate a citizen's constitutional privacy guarantees without so much as a shred of evidence that the requirement has been violated. And yet, that is the effect of the Final Determination. Taking the OOR's reasoning to its logical conclusion, the so-called "public interest" in "verifying" *any* residency requirement would outweigh any competing constitutional privacy protections, thus rendering such protections effectively meaningless. Nearly *every* citizen's interaction with, or participation in, the government involves a residency requirement contained within state or federal constitutions, or other federal, state, or local laws. To be sure, there are residency requirements to vote, to obtain a license to drive and to register a vehicle, to obtain welfare benefits, to qualify for student financial aid, to pay taxes and qualify for certain deductions, to get a street parking permit, etc. As a result, the government has become a necessary repository of a vast amount of information about its citizenry, including home addresses. This does not mean, however, that citizens relinquish any expectations of privacy by virtue of their participation in democracy.

The irony should not be lost on anyone that the RTKL *itself* requires that Mr. McFarland be a legal resident of the United States in order to make a request. See 65 P.S. § 67.102.[3] Does the mere existence of the RTKL's residency requirement mean that Mr. McFarland has given up his constitutional right to privacy in his home address? Does the mere existence of the RTKL's

[3] **"Requester."** A person that is a legal resident of the United States and requests a record pursuant to this act. This term includes an agency. 65 P.S. § 67.102.

residency requirement mean that the County or the OOR must provide Mr. McFarland's home address to a third party who requests it if the County maintains a record of it? Of course not. That would be an absurd and constitutionally-untenable result, but it is the result the OOR has ordered. The Final Determination, if upheld, would have far-reaching consequences beyond this particular case, and could chill participation in democratic government. It must therefore be reversed.

The County suggests that balancing the interests is not necessarily a zero-sum game. Here, if there is a *legitimate* interest in verifying residency by the AFL-CIO (though it is not likely that an official who is unlawfully residing outside of his/her district would report it to the County), the County is willing to review the addresses in our records and present a sworn affidavit from the Director of Elections and Voter Registration that the recorded addresses comply with applicable residency requirements. This would protect the privacy of the elected officials, while satisfying any legitimate interest in residency verification.

III. The OOR may not require the County to disclose private data without first providing meaningful due process protections to affected citizens.

The County may not disclose, nor may the OOR require the County to disclose, private information of public officials until the affected citizens have written notice and meaningful opportunity to object at the request stage to disclosure of their private information. See *Pennsylvania State Education Association ex rel. Wilson v. Com.*, 110 A.3d 1076 (Pa. Cmwlth. 2015) (rev'd on other grounds, see *PSEA II, supra*). As alluded to above, the OOR does not

provide adequate due process rights to the 332 elected officials whose home addresses it has ordered the County to release.

Though Section 67.1101 of the Right-To-Know Law seemingly recognizes the interests of the individuals whose home addresses are to be released, it nevertheless fails to grant due process rights to those individuals *prior* to appeal, and even upon appeal, it is left entirely up to the discretion of the appeals officer to permit involvement of directly-affected individuals ("the appeals officer *may* grant a request under paragraph (1) [relating to a third party's request to be heard] if..."). 65 P.S. § 67.1101(c). This is woefully inadequate protection for directly-affected individuals, and the County cannot presume to assert the direct interests of 332 elected officials who do not have a right to be a party to the dispute. The County is similarly not in a position to *waive* 332 privacy interests on their behalf.

In the 7 years since the Pennsylvania Supreme Court first reprimanded the OOR for its "repeated failure to promulgate adequate regulations to address the almost complete lack of procedural due process for individuals whose personal information is subject to disclosure under the RTKL," the OOR has unfortunately taken no action to remedy those constitutional failures. See *PSEA II,* at 158-9 (referencing *Pennsylvania State Educ. Ass'n ex rel. Wilson v. Com., Dept. of Community and Economic Development,* 50 A.3d 1263 (Pa. 2012) ("*PSEA I*"). In *PSEA I,* Justice Saylor explained the "severe" procedural due process shortcomings under the RTKL in no uncertain terms:

> While the OOR portrays itself as a quasi-judicial tribunal relative to [PSEA's] interests, it offers an exceptionally weak rejoinder to [PSEA's] notice-related concerns. In this regard, the OOR merely observes that local agencies such as school districts may adopt rules to provide adequate notice. See Brief for the OOR at 9. Indeed, the OOR's position that affected school employees receive adequate process depends on a series of such mere possibilities: each of the some 500 school districts statewide may or may not adopt an

> individualized notice policy; a school employee whose address is requested may or may not receive notice of the request; a school district may or may not disclose the information to requestors; if a district does not disclose, and upon a requestor's appeal, the OOR may or may not permit the affected schoolteacher to participate in the proceedings; and the school employee may or may not be aware of any further appeal proceedings in the judiciary.

PSEA I, 50 A.3d at 1275. Former Chief Justice Castille similarly castigated the OOR for its complete lack of due process:

> [T]he Right-To-Know Law also authorizes the OOR to "promulgate regulations relating to appeals involving a Commonwealth agency or local agency." See 65 P.S. § 67.504(a); see also 65 P.S. § 67.1102(b) ("Procedures.—The Office of Open Records...may adopt procedures relating to appeals under this chapter."). As a practical matter, the OOR may be in the best position to devise an adequate procedure governing all appeals to the OOR that complies with and promotes uniformity in the OOR's administration of the Right-To-Know Law. As applied here though, the downside of the approach advocated by the OOR is obvious: individual school districts may or may not adopt policies in time to address record requests; and the school districts' action is likely to result in a patchwork of policies that may or may not resolve due process concerns. Accordingly, I am skeptical of the OOR's apparent decision to abdicate its potential role as the agency responsible for adopting regulations that facilitate the appeal process and its administration of the Right-To-Know Law, uniformly and in accordance with its expertise.

Id. at 1279. Noting that the OOR has done nothing to correct these due process concerns since *PSEA I,* the Supreme Court in *PSEA II* warned that "[a]lthough the issue is mooted in this case, we reiterate to the OOR, and to the General Assembly, our previously expressed concerns regarding the disjointed and scant procedural protections at both the request and appeal stages of the RTKL. Given the breadth of the disclosure anticipated by the RTKL and the public's demonstrated appetite for information from and about the government, we wait for the inevitable next case to rule definitively on the procedural challenges." *PSEA II* at 159-60.

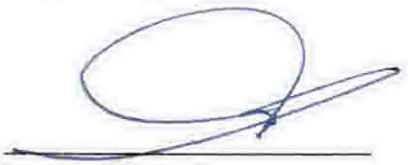
The issue of procedural due process was raised on appeal by the County, and the County's objection was even noted by the OOR in the Final Determination (see pg. 2), but OOR's legal analysis and subsequent order fails to address those concerns. It was *again* raised in the County's administrative petition for reconsideration, but the OOR, in denying the petition, wholly avoided the issue.

As the OOR has yet to promulgate any regulations which provide for procedural due process rights for affected citizens, it may not constitutionally require the County to disclose the information sought by the Requester in this case, even if the public interest in disclosure were found to outweigh constitutional privacy guarantees. *Id.*

IV. CONCLUSION

The County has an affirmative duty to respect and protect a citizen's constitutional guarantees, which includes both privacy and due process interests. Until the OOR grants a right to the 332 public officials to a hearing or other process to determine their *individual* interests, it may not properly weigh the interests as required by the state and federal Constitutions, nor may it require the County to comply with its Final Determination. For these reasons, it is respectfully requested that this Honorable Court overturn the Final Determination dated July 2nd, 2019.

Respectfully Submitted,



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Certificate of Service

I, Sean A. Mott, Esq., hereby certify that the foregoing Memorandum of Law has been served via first class mail, upon the following:

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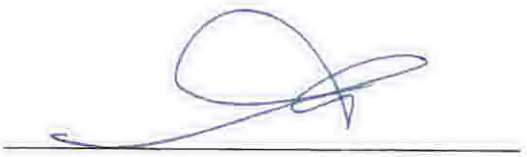
Certificate of Compliance

I certify that this filing complies with the applicable provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* regarding the filing of confidential information.

Date: 10/4/19



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