8. Mr. Lerner’s request did not include any docket numbers of matters before the TRB, and without a docket number it is not possible to search TRB files for specific records.

9. Applying the definition of Confidential Tax Information as defined in the TRB Regulations to the request, I reasonably interpreted the request as seeking records containing or reflecting Confidential Tax Information.

10. Although it is unclear to me which records Mr. Lerner sought in his request, I was able to discern Items 39-41, and 44 were seeking records reflecting ex parte communication between members of the TRB and lawyers in the City of Philadelphia Law Department concerning Mr. Lerner’s tax controversy with the City of Philadelphia.

11. I conducted or authorized a search to be conducted of the TRB for records responsive to Items 39-41, and 44 of the Request and the TRB has no records responsive to these items.

12. In Lerner v. Tax Review Board, AP 2017-2164, I provided an affidavit dated December 1, 2017 in which I attested that subject to all copying costs, the TRB is willing to provide a copy of any taxpayer’s file to that taxpayer outside of the RTK process.

13. Mr. Lerner has never requested a copy of his file from our office although he has indicated an interest in conducting an in person review of his file.

14. In an effort to arrange for Mr. Lerner to conduct an in person review of his file, I reached out to Mr. Lerner via electronic mail on the following dates attempting to schedule an appointment for him to review his file at our office:

   a. May 3, 2018;
   b. May 8, 2018;
   c. May 15, 2018;
   d. May 22, 2018; and
   e. June 6, 2018.

15. Due to my schedule I need advance notice in order to prepare for Mr. Lerner to review his file. As Executive Director of the Office of Administrative Review, I attend TRB hearings two days a week. My other responsibilities, which include but are not limited to the following, keep me extremely busy on a daily basis:

   a. With respect to the TRB:
      i. I supervise and manage TRB employees and the 5-member board;
      ii. I manage the TRB hearings, which includes preparing dockets for each hearing and taking notes during the hearings which occur every Tuesday and Thursday from 2 pm to 4 pm.
      iii. I am responsible for drafting TRB opinions going to the Philadelphia Court of Common Pleas.
b. With respect to the Office of Administrative Review ("OAR") which processes petitions for hearings of an array categories, including the Code Unit which is responsible for inputting and conducting quality assurance on all code violation issued by the City including Police, Streets, L+1, and applicable other agencies:
   i. I am responsible for the day to day operations of the OAR.
   ii. I supervise over 20 employees.

c. Finally, on a regular basis I attend meetings with other departments and with other City officials and this includes at least 1-2 meetings a day.

16. Mr. Lerner did not respond to my May 3, 2018, May 8, 2018, or May 15, 2018 emails. Instead, he emailed on May 21, 2018 requesting to review his records the next day, sometime "in the afternoon". I emailed him back on May 22, 2018 and asked that he provide me other days and times as there was not enough notice provided. Later, on May 22, 2018, he appeared at my office and demanded to review his file at the moment and I was unable to accommodate him that day.

17. Approximately four thousand petitions are filed with the TRB each year. TRB files are maintained on site in the TRB file room which contains files heard by the Board going back three years. Since Mr. Lerner had not scheduled an appointment to inspect his file, his file was not available for review. Due to the sheer volume of records maintained in the TRB storage room, we need time to pull a file to prepare for an onsite inspection of the records.

18. I continue to ask Mr. Lerner to provide a date and time to review his records, noting that the records have now been pulled from the record room and remain accessible for review.

19. Mr. Lerner has filed at least eight RTK requests directed to the TRB since 2013 seeking records relating to his tax controversy with the Department of Revenue

By: [Signature]
On: [Date]

Melissa C. Andre, Esq.
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Lerner v. City of Philadelphia Tax Review Board, AP 2018-1000

Affidavit of Melissa Andre, Esq., Open Records Officer

I, Melissa Andre, am the Open Records Officer for the City of Philadelphia Tax Review Board ("TRB" or "Board") and am authorized to execute this affidavit. I state the following to the best of my knowledge, information and belief under penalty of perjury pursuant to 18 Pa. C.S. 4904 relating to unworn falsification of authorities:

1. I attest that I am aware of the request dated May 22, 2018 submitted by Mr. Lerner to the Tax Review Board seeking the following 9 items. ("May 22, 2018 Request").

   a. **Item 1:** Records, regardless of physical form or characteristics, in the possession, custody, or control of the Philadelphia Tax Review Board or any third-party contractor(s), including inter alia, Class Act Reporting Agency, which specify the terms and conditions by which the City of Philadelphia or any of its subentities have retained the services of the aforesaid reporting company during the years 2010 through the present time...

   b. **Item 2:** Records, regardless of physical form or characteristics, in the possession, custody, or control of the Philadelphia Tax Review Board or any third-party contractor(s), including inter alia, Class Act Reporting Agency, which document if and when the Philadelphia Tax Review Board transmitted its record to the unsealed docket of the Prothonotary of the Court of Common Pleas of Philadelphia County, redacted of any confidential information, as defined by 53 Pa.C.S. §8921 (a), to the extent to which such redaction is necessary, relevant, and appropriate under the circumstances, and the confidentiality of said records has not already been vitiating by 2 Pa.C.S. §754 (b) and/or an Order of the Philadelphia Court of Common Pleas, which directed the Agency to electronically file its record in the unsealed docket of the Prothonotary or risk sanctions.

   c. **Item 3:** Records, regardless of physical form or characteristics, in the possession, custody, or control of the Philadelphia Tax Review Board or any third-party contractor(s), including inter alia, Class Act Reporting Agency, which document why the Philadelphia Tax Review Board failed to transmit and instead withheld its record to the Prothonotary of the Court of Common Pleas of Philadelphia County...

   d. **Item 4:** Records, regardless of physical form or characteristics, in the possession, custody, or control of the Philadelphia Tax Review Board or any third-party contractor(s), including inter alia, Class Act Reporting Agency, which contain the transcribed Notes of Testimony of the hearing before the Philadelphia Tax Review Board, held on May 22, 2012 in the matter of the Appeals of Nathan...
Lerner, filed on November 12, 2010 of the Account Liability Statements, issued by the Philadelphia Department of Revenue on November 10, 2010...

e. **Item 5**: Records, regardless of physical form or characteristics, in the possession, custody or control of the Philadelphia Tax Review Board, or any third-party contractor(s), including *inter alia*, Class Act Reporting Agency, which contain a copy of the requisite, initial “assessment bill” or evidence that the Philadelphia Department of Revenue ever prepared such a document on Nathan Lerner within the six-year statute of limitations or thereafter, redacted of any confidential information....

f. **Item 6**: Records, regardless of physical form or characteristics, in the possession, custody or control of the Philadelphia Tax Review Board, or any third-party contractor(s), including *inter alia*, Class Act Reporting Agency, which contain a copy of the Decisions as to the Appeal of Nathan Lerner, filed on November 12, 2010 of the Account Liability Statement issued by the Philadelphia Department of Revenue on November 10, 2010 as to Net Profits Tax during the years, 2001, 2002, 2003, 2004, and 2005...

g. **Item 7**: Records, regardless of physical form or characteristics, in the possession, custody or control of the Philadelphia Tax Review Board, or any third-party contractor(s), including *inter alia*, Class Act Reporting Agency, which indicate if and when the Philadelphia Tax Review Board served Nathan Lerner with a copy of the Decisions arising from the Appeal of Nathan Lerner, filed on November 12, 2010 of the Account Liability Statement issued by the Philadelphia Department of Revenue on November 10, 2010 as to Net Profits Tax during the years, 2001, 2002, 2003, 2004, and 2005...

h. **Item 8**: Records, regardless of physical form or characteristics, in the possession, custody or control of the Philadelphia Tax Review Board, or any third-party contractor(s), including *inter alia*, Class Act Reporting Agency, which contain the file or any portion thereof, subsumed in the Appeals of Nathan Lerner, filed on November 12, 2010 of the Account Liability Statements, issued by the Philadelphia Department of Revenue on November 10, 2010...

i. **Item 9**: Records, regardless of physical form or characteristics, in the possession, custody or control of the Philadelphia Tax Review Board, or any third-party contractor(s), including *inter alia*, Class Act Reporting Agency, which contain the file or any portion thereof, subsumed in the Appeals of Nathan Lerner of any subsequent Delinquent Tax Bill(ing)s, issued by the Philadelphia Department of Revenue...

3. I emailed to Mr. Lerner on the following dates to schedule his in-person review of his TRB file:
   a. May 3, 2018;
   b. May 8, 2018
   c. May 15, 2018;
   d. May 22, 2018;
   e. June 6, 2018; and

4. Mr. Lerner responded to me for the first time on May 21, 2018 at 4:31 PM, at which time I was out of the office and Mr. Lerner received my out of office email response. Mr. Lerner informed me that he would stop by, “sometime in the afternoon” to review his file. At 2:22 PM on May 22, 2018 I responded to Mr. Lerner’s May 21, 2018 email and requested that he provide dates later that week or the next week to review his file.

5. Mr. Lerner did not respond to my May 22, 2018 email but instead appeared at the TRB an hour later demanding to review his file. I explained to Mr. Lerner that I had not received his email in sufficient time to retrieve his file from storage, and again requested him to schedule an appointment to review his file. Mr. Lerner refused to leave the TRB, yelled at TRB staff members and refused to provide a date and time to return to review his file. During this episode, Mr. Lerner accused the TRB of losing his file.

6. At 3:55 PM on May 22, 2018, Mr. Lerner sent me a rambling email which mischaracterized the events earlier that day and attached a RTK request. His 3:55 PM email sought confirmation of his request.

7. In light of the events that transpired with Mr. Lerner earlier that day, the TRB inadvertently did not see the attached RTK request and therefore did not respond to it. Notably, in a 3:59 PM response email to Mr. Lerner, I again requested that Mr. Lerner provide a date and time to review his file, and did not acknowledge receipt of his RTK request as he requested.

8. Records responsive to Item 1 have been sent to Mr. Lerner.

9. With respect to Item 2, the relevant language in Item 2 appears to be “records...which document if and when the Philadelphia Tax Review Board transmitted its record to the unsealed docket of the Prothonotary of the Court of Common Pleas of Philadelphia County...” Item 2 does not include the date of the record Mr. Lerner is seeking. To the extent Mr. Lerner is confident the TRB transmitted something to the Court of Common
Pleas, the Court of Common Pleas dockets are publicly available for review. Moreover, to the extent Mr. Lerner is referencing an order of the Court of Common Pleas, Philadelphia County, Mr. Lerner has not included a docket number and I am unsure which matter and Order he is referring to. For the above reasons, I am not sure which records Mr. Lerner is seeking in Item 2.

10. With respect to Item 3, the relevant language in Item 3 appears to be, “records...which document why the Philadelphia Tax Review Board failed to transmit and instead withheld its record to the Prothonotary of the Court of Common Pleas of Philadelphia County...” Just as with Item 2, I do not see the name or date of the record Mr. Lerner is seeking. To the extent Mr. Lerner is confident the TRB did not take a specific action, there would be no record reflecting an action not taken. Finally, to the extent Mr. Lerner is referencing an Order of the Court of Common Pleas, Philadelphia County, Mr. Lerner has not included a docket number and I am unsure which matter and Order he is referring to. As a result, I do not know which record(s) Mr. Lerner is seeking in Item 3.

11. With respect to Item 4, it appears to me that Mr. Lerner is seeking from the TRB the notes of testimony from his May 22, 2012 hearing before the TRB. The TRB does not have this record. Moreover, Mr. Lerner has previously requested this record from the TRB and the TRB previously responded it does not have this record. To the extent Mr. Lerner is referencing an order of the Court of Common Pleas, Philadelphia County, Mr. Lerner has not included a docket number and I am unsure which matter and Order he is referring to.

12. With respect to Item 5, Mr. Lerner appears to be seeking a copy of the “requisite initial assessment bill or evidence that the Philadelphia Department of Revenue ever prepared such a document on Nathan Lerner within the six-year statute of limitations or thereafter...” This item does not specify the tax type of year of the “requisite initial assessment bill” he is seeking, and does not define the term “requisite initial assessment bill.” As a result, I do not understand which record Mr. Lerner is seeking in Item 5. Moreover, any tax assessment issued by the Department of Revenue would contain confidential tax information, and would only be part of a TRB file if the TRB obtained the record through its investigatory authority.

13. With respect to Item 6, it appears Mr. Lerner is seeking “a copy of the Decisions as to the Appeal of Nathan Lerner” filed on November 12, 2010 of the Account Tax Liability Statement issued by the Philadelphia Department of Revenue on November 10, 2010 as to Net Profits during the years, 2001, 2002, 2003, 2004 and 2005.” As I have already attested in previous affidavits, any information, including to a TRB decision, related to Mr. Lerner’s tax liabilities for Net Profit tax would contain confidential tax information as defined by the TRB Regulations and Pennsylvania state law.
14. With respect to Item 7, it appears Mr. Lerner is seeking, "records...which indicate if and when the Philadelphia Tax Review Board served Nathan Lerner with a copy of the Decisions arising from the Appeal of Nathan Lerner, filed on November 12, 2010 of the Account Liability Statement issued by the Philadelphia Department of Revenue on November 10, 2010 as to Net Profits tax during the years 2001, 2002, 2003, 2004 and 2005."

15. Pennsylvania law prohibits the disclosure of confidential tax information. It is the TRB’s position that any records revealing whether an individual or entity has a tax controversy, including a decision by the TRB or evidence of when a decision concerning a tax controversy is sent to a taxpayer, is confidential tax information. As a result, the TRB’s interpreted Item 7 as seeking a record which would reveal confidential tax information as defined by TRB Regulations and Pennsylvania law.

16. With respect to Item 8, it appears Mr. Lerner is seeking, "records which contain the file or any portion thereof, subsumed in the Appeals of Nathan Lerner." Again, I do not understand which record Mr. Lerner is seeking. To the extent he is seeking a copy of his own file for the types and years of tax referenced in Item 6 and 7, that file would contain confidential tax information as defined by Pennsylvania law and TRB Regulations.

17. With respect to Item 9, it appears Mr. Lerner is seeking, "records...which contain the file or any portion thereof, subsumed in the Appeals of Nathan Lerner of any subsequent Delinquent Tax Bill(ings) issued by the Dept. of Revenue" and I do not understand which specific records Mr. Lerner is seeking. In fact, I don’t understand the different between Items 8 and 9. To the extent Item 9 is seeking a record different than what he is seeking in Item 8, any record that is a part of his appeal filed with the TRB would contain information related to his tax liabilities and would contain confidential tax information as defined by TRB Regulations.

18. Records contained in any TRB file, are records the TRB has obtained during the course of an investigation that the TRB is authorized to conduct.

19. As I previously attested, records contained in a TRB file concerning taxes other than real estate tax file contain confidential tax information as that term is defined in TRB Regulations and Pennsylvania law.

20. TRB Regulations defined "Confidential Tax Information" as “information regarding tax liability or verification of tax liability that, in the hands of the City, would be confidential tax information as defined in Pa. C.S. 8921.” Philadelphia TRB Regulations (“Phila. TRB Reg.”) Art. 1(B).

21. TRB Regulations further provide: All records of proceedings before the Board, to the extent they contain confidential tax information, shall be and remain confidential, subject
only to transmittal to the appropriate Court as part of the record upon any appeal. *Phila. TRB Reg. Art. 16.*

22. I either searched or authorized a search to be conducted in connection with this request.

23. In *Lerner v. Tax Review Board*, AP 2017-2164, and in *Lerner v. Tax Review Board*, AP 2018-0933, I provided affidavits in which I attested that subject to all copying costs, the TRB is willing to provide a copy of any taxpayer’s file to that taxpayer outside of the RTK process. The TRB is also willing to allow Mr. Lerner to conduct an in-person review of his file.

24. Mr. Lerner has not yet attempted to re-schedule an appointment to review his TRB file.

25. Mr. Lerner has filed at least nine RTK requests directed to the TRB since 2013 seeking records relating to his tax controversy with the Department of Revenue.

By: [Signature]  
On: [Signature]

Melissa C. Andre, Esq.  
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Exhibit I
Lerner v. City of Philadelphia, AP 2017-0261

Affidavit of Jo Rosenberger Altman, Esq.,
Divisional Deputy City of Philadelphia Law Department

1. Jo Rosenberger Altman, Esq., am Divisional Deputy for the City of Philadelphia Law Department ("Law"), Pensions and Investment Unit and am authorized to execute this affidavit. I state the following to the best of my knowledge, information and belief under penalty of perjury pursuant to 18 Pa.C.S. § 4904 relating to unsworn falsification of authorities:

   1. I attest that I have been working in the Law Department on Right to Know matters since 2011. I currently supervise the Pensions and Investments Unit of Law, which includes attorneys who represent the City on responding to Right to Know requests ("RTK group")

   2. I am familiar with the Right to Know request received from Mr. Nathan Lerner directed to the City of Philadelphia Tax Review Board ("TRB") at issue in this appeal which is seeking the following records:

      a. **Item 1:** Documents which specify the procedure for subpoenaing documents or parties for a public hearing before the Tax Review Board;

      b. **Item 2:** Copies of notes of testimony from hearing before the TRB on May 22, 2012 re Nathan Lerner Petition for Appeal (#36BPMERZZ8353) and Opinion sur Decision of May 22, 2012; and

      c. **Item 3:** Copies of notes of testimony from hearing before the TRB on May 22, 2012 re Nathan Lerner Petition for Appeal (#36NPERZZ8353) and Opinion sur Decision of May 22, 2012.

   3. I am aware that since 2012 Mr. Lerner has filed forty seven ("47") Right to Know Requests with the City entities seeking records relating to his tax controversy with the City of Philadelphia Department of Revenue ("Revenue") referenced in the January 27, 2017 affidavit of Kelly Diffily in Lerner v. Office of the Philadelphia Department of Revenue, AP 2017-0048 ("Diffily Aff."), a true and correct copy of which is attached hereto as Attachment 1.

   4. I am further aware that attorneys in Law have obtained Court Orders which prohibit Mr. Lerner from initiating further litigation against the City relating to the same tax controversy referenced above. See Diffily Aff. and exhibits, Attachment 1.

   5. Law Department Right-to-Know group represents the City on all RTK requests directed to the City generally, most City departments, including Law, Revenue, and the TRB. Law has been involved in responding to all of the above referenced requests submitted by Mr. Lerner.

   6. Mr. Lerner has previously submitted RTK requests seeking the Notes of Testimony from his May 22, 2012 hearing on multiple occasions. Below is a summary of his
requests seeking either the Notes of Testimony or information on how to obtain the Notes of Testimony from the May 22, 2012 hearing:

a. **2013-1050** was directed to the City and sought "how to access Notes of Testimony;

b. **2016-0428** was directed to Revenue and sought the Notes of Testimony from the May 22, 2012 TRB hearing (Item 7 of the request);

c. **2016-0932** was directed to Revenue and sought the Notes of Testimony from the May 22, 2012 TRB hearing (Item 22 of the request);

d. **2016-1832** was to the TRB and sought the Notes of Testimony from May 22, 2012 (Items 2 and 3 of the request). This request is the request at issue in the instant appeal.

e. **2017-0048** was directed to Revenue and sought the Notes of Testimony from the May 22, 2012 TRB hearing. This request was inadvertently deemed denied and is currently docketed with the OOR as *Lerner v. City of Philadelphia Department of Revenue*. AP 2017-0048 and is pending on appeal with Appeals Officer Wolfe.

f. **2017-0195** was directed to the City and is seeking the Notes of Testimony from the hearing before the TRB on May 22, 2012.

These requests, and the accompanying final responses, are attached hereto asAttachment 2.

7 The TRB has previously told Mr. Lerner that it does not have copies of the transcript requested and the City has directed him to contact the appropriate court reporter to obtain it on numerous occasions. See Attachment 2. In fact, as Ms. Diffily notes in her affidavit, the Court of Common Pleas order Mr. Lerner to pay for and obtain the notes of testimony from the May 22, 2012 hearing and he has had appeals dismissed for his failure to do properly obtain the transcript from the court reporter. See Diffily Aff. at Paragraphs 8-12.

8 As explained above, within the context of the RTKL, the Law Department represents the entire City of Philadelphia, including each Department. When the Law Department RTK group receives a RTK Request directed to "the "City" as opposed to an identified Department, the RTK group makes a good faith effort to determine which departments, offices, boards or commissions would have responsive records and then works with that City entity to respond to the Request.

9 Mr. Lerner’s submission of multiple requests for the Notes of Testimony from his May 22, 2012 hearing have been disruptive and burdensome to the Tax Review Board, the Department of Revenue, and multiple units within the Law Department as a whole (including the RTK group, the Appellate Unit, and the Tax Unit). Given the volume and repetitive nature of all of Mr. Lerner’s requests, each time a new request is submitted, it takes time to determine if the same record has been sought previously. This detracts from the Law Department as well as Revenue and TRB staff performing their normal functions. Typically, it involves TRB coordinating with the various Law
Department Units as well as often with Revenue to respond and to update the Law Department RTK group (which was not otherwise in any way involved in the tax controversy) on the ongoing controversy with Mr. Lerner, thus detracting from the resources of multiple City entities.

10 Given the ongoing burden on the TRB, in this instance, I have submitted an affidavit in attempt to temper the increased and repetitive disruption on the Executive Director of the TRB, and her staff, who have been repeatedly distracted from their daily functions in order to respond to Mr. Lerner’s request and bring the Law Department’s RTK group up to speed on these issues each time Mr. Lerner submits a new batch of requests after a period of no contact.

By [Signature] on 3/1/2017

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Exhibit J
BEFORE THE PENNSYLVANIA OFFICE OF OPEN RECORDS

NATHAN LERNER,

Appellant

v.

PHILADELPHIA DEPARTMENT OF REVENUE

Agency

APPELLANT’S BRIEF IN SUPPORT OF APPEAL

(EXHIBITS A-E)

NATHAN LERNER, pro se
1351 S. MARKOE STREET
PHILADELPHIA, PA 19143
EXHIBIT “A”
Lerner v. Office of the Philadelphia Department of Revenue, AP 2017-0048

Affidavit of Susan M. Crosby, Esq., City of Philadelphia Law Department

I, Susan M. Crosby, Esq., am a Divisional Deputy City Solicitor in the Tax Unit of the City of Philadelphia Law Department, and am authorized to execute this affidavit. I state the following to the best of my knowledge, information and belief under penalty of perjury pursuant to 18 Pa.C.S. § 4904 relating to unanswered falsification of authorities:

1. I attest that I am aware of the underlying RTK request received from Mr. Lerner dated December 23, 2016 seeking the following records:
   a. **Item 1**: Copy of Notices of Testimony from hearing before the Tax Review Board (“TRB”) on May 22, 2012 re Nathan Lerner Petition for Appeal (#36BPMERZZ8353)
   b. **Item 2**: Opinion [of hearing referenced above];
   c. **Item 3**: Copy of Notes of Testimony from hearing before the TRB on May 22, 2012 re Nathan Lerner Petition for Appeal (#36NPME8353); and
   d. **Item 4**: Opinion [of hearing referenced above].

2. I have been an attorney in the City of Philadelphia Law Department Tax Unit since January 2012.

3. I am aware of the various matters between Mr. Lerner and the Department of Revenue, and in fact have represented the Department of Revenue in all of Mr. Lerner’s appeals to the Court of Common Pleas Philadelphia County (“CCP”).

4. The City filed a collection against Mr. Lerner in CCP docketed as September Term 2009, No. 02693 (the “Collection Action”).

5. In November 2010, Mr. Lerner filed Petitions for Appeal with the TRB challenging Revenue’s tax assessment in the Collection Action. These Petitions for Appeal filed with the TRB were identified by the TRB by docket numbers 36BPMERZZ8354 (challenging Business Income and Receipts Taxes, formerly known as the Business Privilege Tax), 36NPME89259 (challenging Net Profits Taxes).

6. On May 22, 2012, the TRB held a hearing on both petitions, and in accordance with TRB procedures, a final decision was announced by the Chairwoman of the TRB at the conclusion of the hearing. Letters memorializing the TRB’s decision were mailed to Mr. Lerner on May 25, 2012.

7. Mr. Lerner subsequently filed four more Petitions with the TRB, all challenging the same tax types and periods as those assessed in the City’s Collection Action.

8. The TRB identified all of the subsequent Petitions for Appeal arising out of the Collection Action by the same TRB docket numbers 36BPMERZZ8354, 36NPME89259 because they challenged the same tax types and periods. (“TRB Petitions”), and rejected each subsequent Petition for Appeal.
9. Mr. Lerner proceeded to appeal each rejected TRB Petition to CCP. The following matters are the docket numbers of Mr. Lerner’s appeals to CCP as identified by CCP:

   a. June Term, 2012, No. 03152;
   b. September Term 2013, No. 0329;
   c. November Term 2013, No. 0005;
   d. December Term 2013, No. 02384; and
   e. February Term 2014, No. 02194;

In each of these cases, Mr. Lerner continued to attempt to challenge the assessments underlying the Collection Action.

10. CCP either denied or dismissed all of Mr. Lerner’s agency appeals.

11. June Term, 2012, No. 03152 was dismissed by the Honorable Leon Tucker when Mr. Lerner failed to order the notes of testimony (“Transcript”) in accordance with a court order.

12. Mr. Lerner appealed June Term 2012 No. 03152 to the Commonwealth Court which was identified by the Commonwealth Court by docket number 515 C.D. 2013. I represented the Department of Revenue in this appeal which the Commonwealth Court denied.

13. In November Term 2013, No. 0005 and December Term 2013, No. 02384, CCP dismissed Mr. Lerner’s appeals with prejudice and decreed that Mr. Lerner was barred from instituting additional litigation against the TRB, the City of Philadelphia, or other related defendants arising from the same or related claims without leave of court. As noted above, both of these actions challenged the Collection Action and were appeals from Mr. Lerner’s TRB Petitions.

14. Mr. Lerner appealed CCP’s dismissal of November Term, 2013, No. 0005 to the Commonwealth Court which was identified by Commonwealth Court by the docket number 1943 C.D. 2014.

15. In 1943 C.D. 2014 the Commonwealth Court affirmed CCP’s order. Mr. Lerner did not appeal matters September Term 2013, No. 0329, December Term 2013, No. 02384, or February Term 2014, No. 02194 to the Commonwealth Court.

16. In accordance with Revenue practice, the Department of Revenue never orders transcripts from TRB hearings. The Law Department orders transcripts only when and if the City takes an appeal of the TRB decision. I ordered the transcript for the consolidated hearings on Mr. Lerner’s TRB Petitions held on May 22, 2012 in connection with my preparation for Mr. Lerner’s trial in the Collection Action. As noted above, this Consolidated Transcript memorializes the hearing on Mr. Lerner’s TRB Petitions which challenges the Collection Action and was appealed in inter alia dockets, November Term 2013, No. 0005 and December Term 2013.
17. The transcript exists as part of my working file in connection with all of the litigation arising from the City's Collection Action against Mr. Lerner.

By [Signature] on 2/3, 2017

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EXHIBIT “B”
PHILADELPHIA TAX REVIEW BOARD
PROCEDURAL REGULATIONS

PART I- GENERAL

ART. 1- DEFINITIONS

A. BOARD- The Philadelphia Tax Review Board

B. TAXPAYER- Any person or entity against whom the City of Philadelphia has asserted liability for any unpaid money or claim collectible by the Department of Revenue, for or on behalf of the City or School District of Philadelphia.

C. MAILING DATE- The date of any document mailed by a City agency shall be deemed to be its mailing date, unless proof to the contrary is shown.

ART. 2- REPRESENTATION

A. Taxpayer's Representative- In proceedings before the Board, a taxpayer may be represented by him- or herself or by any person duly authorized by the Taxpayer.

B. City's Representative- In proceedings before the Board, the City may be represented by the Revenue Commissioner or the City Solicitor, or any duly authorized representative of either the Revenue Commissioner or City Solicitor.

PART II- PETITIONS AND OTHER PLEADINGS

ART. 3- PETITIONS FOR REVIEW

A Petition for Review shall be filed by any taxpayer who is contesting any decision or determination relating to his/her liability for any unpaid money or claim collectible by the Department of Revenue for or on behalf of the City or the School District of Philadelphia. A Petition for Review shall be deemed to include a request for abatement of interest and penalties.

a. Time for filing- Every petition for review shall be filed within sixty (60) days of the mailing date of the initial notice of the amount due, unless the Taxpayer petitions the appropriate department within sixty (60) days of the mailing date of the original notice for departmental review of the matter, in which case the Taxpayer shall have sixty (60) days from the mailing date of the department's decision on review. Except as specifically provided elsewhere, in no case shall the filing of a petition for
departmental review be a mandatory prerequisite to filing a petition for review with the Board.

ART. 4- PETITIONS FOR WAIVER OF INTEREST AND PENALTY
A petition for waiver of interest and penalty shall be filed by any taxpayer requesting only an abatement of interest and penalties which have accrued against any unpaid money or claim.

ART. 5- REFERRAL TO DEPARTMENT
The Board may refer a petition that has been filed to the appropriate department for review of the Taxpayer's dispute. The Taxpayer shall have sixty (60) days from the mailing date of the department's decision on review to notify the Board that he/she does not accept the department's decision on review and is still seeking a review by the Board.

ART. 6- PETITIONS FOR APPEAL OF REFUND DENIAL
A petition for appeal of a refund denial shall be filed by every taxpayer contesting a decision of the Department of Revenue denying in whole or in part a refund request for monies paid as a result of an assessment or bill.

   a. Time for filing- Every petition for appeal of a refund shall be filed within ninety (90) days of the mailing date of the notice by the Department of Revenue of the denial, in whole or in part, of the taxpayer's request for refund.

ART. 7- FORM OF PETITIONS
Every petition shall be on the forms to be provided by the Board for that purpose. The Taxpayer shall provide all requested information.

   a. Signature and Certification- The petition must be signed by the Taxpayer and contain a certification that the facts set forth therein are true.

ART. 8- If the Revenue Commissioner desires to obtain the Board's approval of any compromise or refund of principal of a bill or assessment, or of interest and penalty originally totaling more than $10,000, the Commissioner shall file with the Board a request for compromise or refund approval, together with the Taxpayer's petition for refund or compromise.

The request for approval shall be signed by the Commissioner or his/he authorized representative, and shall state the Commissioner's reasons for believing the request should be granted. Where the reasons for a request for refund approval are adequately set forth in the accompanying petition for refund, the Commissioner may incorporate those reasons by reference.

ART. 9- ANSWERS
No answer to a taxpayer's petition must be filed by the Commissioner unless it is so ordered by the Board.

PART III- HEARING AND DECISIONS

ART. 10- PUBLIC HEARINGS

All hearings held by the Board are open to the public.

ART. 11- MASTERS

The Board, in its discretion, may assign a Master to take testimony, review evidence and issue a recommendation for decision to the Board. The Board shall promptly notify, in writing, the taxpayer, the department and any other appropriate City official of its decision, after receiving and reviewing the Master's recommendation. After decision, any party shall have the right of a hearing de novo before the Board, if requested within thirty (30) days after the mailing date of the decision.

ART. 12- Hearing Notices

Notice of all hearings on taxpayer petitions shall be given to the Taxpayer or his/her named representative. Notice shall also be given to the appropriate City officials.

ART. 13- Continuances

The granting of continuances for cause shown shall be discretionary with the Board. Requests for continuances shall be submitted in writing at least seven (7) days prior to the date of the scheduled public hearing unless the cause could not have been foreseen by such date.

ART. 14- Decisions

All decisions of the Board shall be in writing and prompt notice shall be given to the Taxpayer or his/her named representative and the appropriate City officials.

ART. 15- Rehearings

The Board, in its discretion, may grant a rehearing if, within thirty (30) days after the mailing date of the notice of the decision, a party files a written request. The request for a rehearing should set forth new grounds or other appropriate reasons that a rehearing is warranted.

Explanatory Note: Under current Pennsylvania Law (as of November 15, 1996), the filing of a petition for rehearing does not extend the time for appeal to the Court of Common Pleas. See

ART. 16- Records of Proceedings

All records of proceedings before the Board are public records, subject to examination as such; provided, however, that tax returns offered in evidence by the Revenue Department, the Law Department, or the Taxpayer, and made part of the record in any proceedings, shall be and remain confidential, subject only to transmittal to the appropriate Court as part of the record upon any appeal, and subject to examination by the parties to the proceedings before the Board, authorized personnel of the Board and persons duly authorized by the taxpayer, during the time that such tax returns remain in the possession of the Board.
WAIVER OF CONFIDENTIALITY AND AUTHORIZATION TO RELEASE DOCUMENTS

To the Philadelphia Department of Revenue:

I, Nathan Lerner, am the designated holder of Philadelphia Department of Revenue Account #8729303. Accordingly, I am authorized to issue the following waiver of confidentiality and authorization of documents release. Pursuant thereto:

1. I hereby irrevocably waive the confidentiality of any and all documents in my account #8729303 and the entirety of its contents, including *inter alia*, the unredacted version of the cover letter (Page #1 of the Tax Assessment Notice) and, assuming *arguendo* that it actually exists, the unredacted copy of the assessment bill (Page #2 of the Tax Assessment Bill) and the entirety of their respective contents.

2. I hereby irrevocably authorize the release of any and all of the documents in my account #8729303 and the entirety of its contents, including *inter alia*, the unredacted version of the cover letter (Page #1 of the Tax Assessment Notice) and, assuming *arguendo* that it actually exists, the unredacted copy of the assessment bill (Page #2 of the Tax Assessment Notice) and the entirety of their respective contents.

3. I hereby irrevocably authorize the release of any and all of the documents in my account #8729303 and the entirety of its contents, including *inter alia*, the unredacted version of the cover letter (Page #1 of the Tax Assessment Notice) and, assuming *arguendo* that it actually exists, the unredacted copy of the assessment bill (Page #2 of the Tax Assessment Notice) and the entirety of their respective contents to any and all parties seeking it under 65 P.S. §67.101 *et seq.* (Right to Know Law).

RESPECTFULLY ATTESTED:

DATE: July 10, 2017

NATHAN LERNER
CITY OF PHILADELPHIA
TAX REVIEW BOARD

PANEL MEMBERS:      T. DAVID WILLIAMS, Chairman
                     LAVON WELLS-CHANCY, Commissioner
                     NANCY KAMMERDEINER, Commissioner
                     JOSEPH FERLA, Commissioner

RE:                  Nathan Lerner, 368PMER228354, 36NPMER229259
HELD AT:             100 South Broad Street, Suite 400
IN ATTENDANCE:       MARISSA O'CONNELL, City Representative
                     CHRISTINE SHULTZ
                     NATHAN LERNER, Petitioner
HELD ON:             Tuesday, May 22, 2012
REPORTED BY:         Renée Helmar, Shorthand Reporter

CLASS ACT COURT REPORTING AGENCY
Registered Professional Reporters
1420 Walnut Street                     133 Gaither Drive
Suite 1200                             Suite H
Philadelphia, PA 19103                  Mt. Laurel, NJ 08054
(215) 928-9760                         (856) 235-5108
EXHIBIT “E”
from: Nathan Lerner <lernerprose@gmail.com>

to: Jill Freeman <Jill.Freeman@phila.gov>

date: Fri, Nov 24, 2017 at 3:21 PM

subject: RTKL Request-Law Department (transcripts et al.)

mailed-by: gmail.com

Dear Ms. Freeman:

I hope that you had a pleasurable Thanksgiving.

Attached please find a copy of my RTKL request. If you have any questions, please do not hesitate to let me know.

    Very truly yours,
    Nathan
OOR DKT. #AP 2018-1000

BEFORE THE OFFICE OF OPEN RECORDS

NATHAN LERNER,
Appellant

v.

PHILADELPHIA TAX REVIEW BOARD
Appellee

APPELLANT'S AFFIDAVIT IN SUPPORT OF APPEAL-EXHIBITS

NATHAN LERNER, pro se
1351 S. MARKOE ST.
PHILADELPHIA, PA 19143-3418
EXHIBIT “A”
CITY OF PHILADELPHIA
TAX REVIEW BOARD

* * * *

PANEL MEMBERS: T. DAVID WILLIAMS, Chairman
LAVON WELLS-CHANCY, Commissioner
NANCY KAMMERDEINER, Commissioner
JOSEPH FERLA, Commissioner

RE: Nathan Lerner, 36NPME228354, 36NPME229259

HELD AT: 100 South Broad Street, Suite 400

IN ATTENDANCE: MARISSA O'CONNELL, City Representative
CHRISTINE SHULTZ
NATHAN LERNER, Petitioner

HELD ON: Tuesday, May 22, 2012

REPORTED BY: Renée Helmar, Shorthand Reporter

* * * *

CLASS ACT COURT REPORTING AGENCY
Registered Professional Reporters
1420 Walnut Street 133 Gaither Drive
Suite 1200 Suite H
Philadelphia, PA 19103 Mt. Laurel, NJ 08054
(215) 928-9760 (856) 235-5108
RE: LERNER, NATHAN
DEPARTMENT: [redacted]
PROPERTY: [redacted]

DEAR SIR/MADAM:

This is to advise you of the decision of the TAX REVIEW BOARD in the subject case, which was rendered ON 05/22/2012 for the following individual tax type and taxable periods:

[redacted]

Unless otherwise noted, you have 30 days from the mailing date of this letter to pay the bill in full or enter into an installment plan with the Department of Revenue. Failure to do so will result in the reinstatement of the abated interest and/or penalties by the Department of Revenue.

For information pertaining to the new bill to be issued by the Department of Revenue please contact the telephone number as stated on your previous bill.

You have thirty (30) days from the mailing date of this letter to appeal to the Court of Common Pleas.

Very Truly Yours,
Office of Administrative Review
05/25/2012

cc: Revenue Department
    Law Department
    Controller

Mailing Date: MAY 25 2012

Case ID: 090902693
Control No.: 12071410
Dear Sir/Madam:

This is to advise you of the decision of the Tax Review Board in the subject case, which was rendered on 05/22/2012 for the following individual tax type and taxable periods:

Unless otherwise noted, you have 30 days from the mailing date of this letter to pay the bill in full or enter into an installment plan with the Department of Revenue. Failure to do so will result in the reinstatement of the abated interest and/or penalties by the Department of Revenue.

For information pertaining to the new bill to be issued by the Department of Revenue please contact the telephone number as stated on your previous bill.

You have thirty (30) days from the mailing date of this letter to appeal to the Court of Common Pleas.

Very Truly Yours,
Office of Administrative Review
05/25/2012

cc: Revenue Department
Law Department
Controller

Mailing Date: MAY 25 2012