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DISTRICT ATTORNEY



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Ms. Shelly Bradbury
Pittsburgh Post-Gazette
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May 23, 2018

Ms. Celia B. Liss, Esquire
Open Records Officer
City of Pittsburgh, Law Department
313 City-County Building
414 Grant Street
Pittsburgh, PA 15219
openrecords@pittsburghpa.gov

In re: Transferred Appeal-Shelly Bradbury and the Pittsburgh Post-Gazette v.
City of Pittsburgh, OOR Dkt. AP 2018-0389

Dear Ms. Bradbury and Attorney Liss:

I am the Open Records Appeals officer for Allegheny County. On May 2, 2018, I received a transferred appeal from the Office of Open Records (OOR). You are both familiar with the procedural history of this case as well as the Final Determination of the OOR and the reason the case was transferred. Of note is the fact that the City of Pittsburgh denied part of Ms. Bradbury's request for documents based upon the criminal investigation exemption, 65 P.S. §67.708(b)(16). In the written denial, dated February 14, 2018, Attorney Liss advised Ms. Bradbury that an

appeal challenging that particular denial needed to be filed with the Appeals officer for the Office of District Attorney within 15 business days.

Ms. Bradbury did not file an appeal with the Office of District Attorney. Rather, she appealed to the OOR and attempted to challenge the criminal investigation exemption in that appeal. In transferring this case, OOR Officer Magdalene C. Zeppos, relied upon the decision in *Union Reform v. District Attorney's Office*, 139 A.3d 354 (Pa. Cmwlth. 2016) to justify the transfer. With all respect to Officer Zeppos, I do not see how that decision can vest jurisdiction in me, given the fact that Ms Bradbury was properly informed about the appeal procedures and elected not to appeal to me. *Union Reform, Id.*, involved a transfer between **Courts** and Commonwealth Court relied upon 42 Pa. C.S. §5103 and Pa.R.A.P. 751 in reaching its decision. The Office of Open Records is not a Court, so I don't see how those transfer provisions would apply. Although The Right to Know Law does not contain a transfer provision, I have taken transfers in the past, where the requester was not informed of the proper procedure to follow, and misfiled. That is not the present situation, however. The requestor made an intentional decision not to file an appeal with the Office of District Attorney.

I have no powers of equity. As a result, I must decline Ms. Bradbury's request and affirm denial of access. Please be advised that pursuant to Section 65 P.S. §67.1302, the parties have 30 days to appeal my decision to the Court of Common Pleas of Allegheny County.

Very truly yours,

/s/ Michael W. Streily .
Michael W. Streily
Deputy District Attorney
Open Records Appeals Officer