

BEFORE THE PENNSYLVANIA OFFICE OF OPEN RECORDS

MATTHEW DAVID DOWLING,
Requester,

v.

**FAYETTE COUNTY OFFICE OF THE
RECORDER OF DEEDS,**
Agency.

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OOR Dkt. AP 2026-2429

REQUESTER’S REPLY TO AGENCY’S RESPONSE AND POSITION STATEMENT

Requester Matthew David Dowling, appearing pro se, replies to the Agency’s Response and Position Statement:

I. INTRODUCTION

1. This appeal addresses whether the Fayette County Recorder of Deeds (the “Agency”) may charge a requester \$387.50 for copies the requester did not request and will not receive as a precondition to inspecting public records.
2. The Agency’s fee demand is contrary to binding Commonwealth Court precedent. The Right-to-Know Law (the “RTKL”) does not permit an agency to shift the cost of its internal workflow to a requester.
3. The Requester respectfully asks the Office of Open Records to deny the Agency’s fee demand, find the Agency’s search inadequate, and direct the Agency to provide access to responsive public records as required by law.

II. BACKGROUND

4. On May 10, 2026, the Requester submitted a request to the Agency for public records. *Requester Exhibit Packet (“R. Ex.”) at 1.*
5. The Request sought records in electronic format if they existed in that format. *Id.*
6. On June 12, 2026, the Agency provided a fee estimate. *Id. at 6.* The estimate required prepayment of \$430.00 for copies or \$387.50 for inspection. *Id.*
7. The estimate also required a “non-refundable retainer fee.” *Id.*
8. On June 18, 2026, the Requester appealed to the Office of Open Records.

9. On July 1, 2026, the Agency submitted its Response and Position Statement. The Agency argues it may charge for 775 paper copies created for its internal redaction process before allowing inspection.

III. ARGUMENT

A. The Agency may not charge for copies created as part of its internal workflow.

10. The Agency's demand for \$387.50 before inspection is based on the cost of copying 775 paper pages. The Agency states it must create these copies to redact non-public information.
11. An agency may not pass on the cost of duplication that corresponds to pages created for the agency's internal review process. *PA Dept. of Ed. v. R. Bagwell*, 131 A.3d 638, 654 (Pa. Cmwlth. 2016).
12. The copies at issue exist only for the Agency to perform its redaction duties under the RTKL. The Requester did not request these copies and will not receive them upon inspection.
13. The fee is a charge for the Agency's internal workflow. The RTKL does not authorize such a charge. *See Bagwell*, 131 A.3d at 654.
14. An agency cannot circumvent the RTKL's fee restrictions by unilaterally creating a record and then charging more than the fee allowed. *State Employees' Retirement System v. Office of Open Records*, 10 A.3d 358, 368 (Pa. Cmwlth. 2010).
15. The Agency's decision to print paper records for redaction is a unilateral workflow choice. The associated cost cannot be shifted to the Requester. *Id.*

B. Section 1307(g) of the RTKL prohibits fees for record review.

16. The Agency cites Section 1307(g) of the RTKL. *Agency Position Statement at 4*. The Agency states this section recognizes that fees established by another statute may control.
17. Section 1307(g) provides that fees must be reasonable and an agency may not impose a fee for reviewing a record to determine whether it is an accessible public record. 65 P.S. § 67.1307(g).
18. The Agency acknowledges it may not charge for the act of redacting information. *Agency Position Statement at 5*. The 775 copies exist only to facilitate redaction and review. The charge therefore falls within the statutory prohibition. 65 P.S. § 67.1307(g).

C. The Agency has not satisfied its burden regarding electronic records.

19. The Agency's Position Statement asserts that all responsive records are maintained in paper format. This assertion is conclusory.
20. An agency affidavit must be detailed and nonconclusory to sustain the agency's burden of proof. *Pennsylvania State Police v. Muller*, 124 A.3d 761, 765-66 (Pa. Cmwlth. 2015).
21. The Request sought emails, electronic communications, social media records, and website administration records. These records are electronic by nature.
22. When a record is maintained electronically, duplication fees are limited to the lesser of the paper fee or the electronic media fee, unless the requester specifically requests the more expensive medium. 65 P.S. § 67.1307(e). The Requester did not request paper copies.
23. To the extent requested information exists in a database or other electronic format, it must be provided. *Commonwealth, Department of Environmental Protection v. Cole*, 52 A.3d 541, 550 (Pa. Cmwlth. 2012).

D. The Agency's search methodology is inadequate.

24. The Agency states it conducted a "good-faith search" but provides no detail. The Agency does not state who searched, what repositories were searched, or what search terms were used.
25. An agency's attestation must describe the search undertaken. *Muller*, 124 A.3d at 765-66. A bare assertion of a good-faith search does not satisfy the Agency's evidentiary burden. *Id.*
26. An agency cannot refuse to search for and produce documents because it would be too burdensome to do so. *Commonwealth v. Legere*, 50 A.3d 260, 263 (Pa. Cmwlth. 2012).

E. The Agency's claim under Section 708(b)(3) is insufficient.

27. The Agency seeks to redact financial account numbers under Section 708(b)(3) of the RTKL. This section exempts records creating a reasonable likelihood of endangering physical security. 65 P.S. § 67.708(b)(3).
28. An agency must offer more than speculation or conjecture to establish security-related exceptions. *Borough of Pottstown v. S. Suber-Aponte*, 202 A.3d 173, 180 (Pa. Cmwlth. 2019).
29. The Agency provides a list of generalized risks but no specific evidence that disclosure of these account numbers creates a substantial and demonstrable risk to the physical security of a building, utility, resource, infrastructure, facility, or information storage system.

F. The Agency improperly conditions inspection on payment of an unauthorized fee.

30. The RTKL limits agency fees to postage and duplication. 65 P.S. § 67.1307(a). The right to inspect public records is a statutory right that carries no fee.
31. By conditioning inspection on a prepayment of \$387.50 for copies the Requester does not want and will not receive, the Agency is charging for inspection. The RTKL does not permit this.

G. The Agency's reliance on non-binding authority is unpersuasive.

32. The Agency cites two OOR final determinations, *Davies v. Greene Township*, OOR Dkt. AP 2023-3129, and *Myer v. Radnor Township*, OOR Dkt. AP 2023-2422.
33. OOR final determinations are not binding precedent. The Agency cites no binding Commonwealth Court or Supreme Court authority for its position that it may charge for copies created solely to facilitate redaction.

H. The Agency has not addressed the unauthorized retainer fee.

34. The Agency's initial response required a "non-refundable retainer fee." *R. Ex. at 6*. The RTKL does not authorize such a fee. The Agency's Position Statement does not address this issue.

V. CONCLUSION

The Agency's fee demand is contrary to law and binding precedent. The appeal should be granted.

Respectfully submitted,



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2026-07-09

Date

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OOR Dkt. AP 2026-2429

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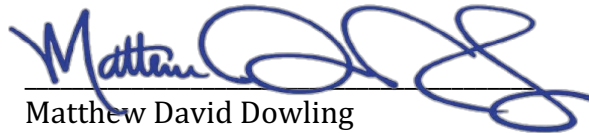
**FAYETTE COUNTY OFFICE OF THE
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Agency.

VERIFICATION

I, Matthew David Dowling, verify that the statements made in the foregoing Requester's Reply to Agency's Response and Position Statement are true and correct to the best of my knowledge, information, and belief.

I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Respectfully submitted,



2026-07-09

Date

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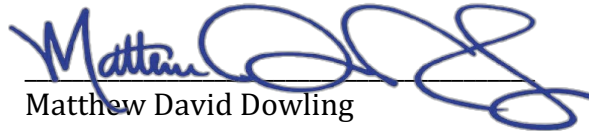
OOB Dkt. AP 2026-2429

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the within document upon the persons and in the manner indicated below.

- Service through the Pennsylvania Office of Open Records electronic filing system:
Pennsylvania Office of Open Records Appeals Officer, OOR Dkt. AP 2026-2429

Respectfully submitted,



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