

FAYETTE COUNTY RECORDER OF DEEDS OFFICE

61 E Main Street, Uniontown, PA 15401

Office: 724-430-1238/ Email: jmarietta@fayettepa.org

JON R. MARIETTA JR.

RECORDER OF DEEDS

BEFORE THE PENNSYLVANIA OFFICE OF OPEN RECORDS

MATTHEW DAVID DOWLING,
Requester

v.

FAYETTE COUNTY OFFICE OF THE RECORDER OF DEEDS,
Agency

OOB Dkt. AP 2026-2429

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

The Fayette County Office of the Recorder of Deeds, through Recorder of Deeds Jon R. Marietta Jr., respectfully submits this Response to Requester Matthew David Dowling's filings in the above-captioned appeal.

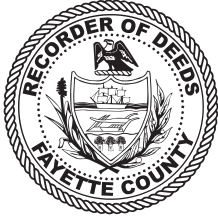
I. INTRODUCTION

Requester challenges the Office's prepayment estimate for access to responsive records. The appeal should be denied.

The Office is not charging Requester for employee time, legal review, search time, retrieval time, record review, or the act of redacting records. The amount requested is limited to authorized copying fees.

The Office identified approximately 860 uncertified responsive paper pages. If Requester seeks copies of all responsive paper records, the estimated statutory copying fee is \$430.00.

If Requester seeks inspection only, approximately 775 of those paper pages must be copied so that non-public information can be securely redacted without permanently altering the original paper records. The remaining approximately 85 pages do not require redaction before inspection and were not included in the inspection-copy estimate.



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The inspection-copy estimate is therefore:

775 pages × \$0.50 per page = \$387.50

The \$0.50 per page rate is authorized by 42 P.S. § 21051 for uncertified Recorder of Deeds copies. Because the estimated copying fees exceed \$100.00, prepayment is authorized under 65 P.S. § 67.1307(h).

The Office further clarifies that it is not charging duplication fees for responsive records that are maintained in electronic format and can be produced electronically without the creation of paper copies. The prepayment estimate applies only to the responsive records identified by the Recorder of Deeds Office that are maintained in paper format and, for inspection purposes, only to the approximately 775 paper pages that must be copied so non-public information may be securely redacted without permanently altering the original paper records.

II. CLARIFICATION REGARDING THE TERM “NON-REFUNDABLE RETAINER”

Requester notes that a County transmittal email used the phrase “non-refundable retainer.” To avoid any confusion, the Recorder of Deeds Office clarifies that the requested amount is not a retainer.

The Office is not seeking a non-refundable retainer. The requested amount is an estimated prepayment of authorized copying fees under 65 P.S. § 67.1307(h).

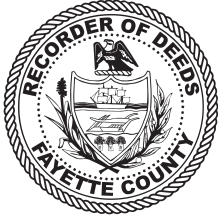
The Office will reconcile the estimate against the actual number of copies necessarily created or provided. If fewer copies are required, the amount will be adjusted accordingly. If additional copies are required, the Office will notify Requester before release.

The Office does not seek payment for staff time, legal review, search time, retrieval time, record review, or redaction labor.

III. THE INSPECTION FEE IS NOT AN UNLAWFUL CHARGE FOR INTERNAL WORKFLOW

Requester argues that the inspection estimate is an unlawful charge for internal workflow.

That is incorrect.



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The Office is not charging for its internal review process. The Office is charging only for physical copies that must be made to allow inspection of redacted paper records while preserving the integrity of the original paper records and protecting non-public information.

The responsive records identified by the Office are maintained in paper format. Approximately 775 pages contain both public information and non-public information, including complete financial account numbers. The Office cannot redact the original paper records because doing so would permanently alter the original records maintained by the Office.

Therefore, before inspection can occur, the Office must make copies of the paper pages requiring redaction and apply redactions to those copies.

The Office did not include the approximately 85 pages that do not require redaction in the inspection-copy estimate. This demonstrates that the Office limited the estimate to the pages that must actually be copied before inspection.

IV. THE RECORDS INCLUDED IN THE PREPAYMENT ESTIMATE ARE PAPER RECORDS

Requester argues that some requested categories, such as emails, website records, social media records, and electronic communications, are electronic by nature.

The Office clarifies that the records included in the 860-page prepayment estimate are responsive records located by the Recorder of Deeds Office and maintained by the Office in paper format.

Those records are not maintained by the Recorder of Deeds Office as native electronic files capable of direct electronic redaction.

The fact that certain categories of records may exist electronically in other circumstances does not convert the paper records identified by the Office into electronic records.

The Office further clarifies that it is not charging duplication fees for any responsive records maintained in electronic format that can be produced electronically without the creation of paper copies. Any such records, if identified and otherwise subject to access under the RTKL, are outside the paper-copy prepayment estimate challenged in this appeal.



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V. ELECTRONIC REDACTION WAS NOT REASONABLY AVAILABLE FOR THE PAPER RECORDS AT ISSUE

Requester argues that modern electronic redaction tools exist.

The existence of electronic redaction tools does not resolve this matter because the records identified in the prepayment estimate are maintained in paper format.

To electronically redact those records, the Office would first have to convert the paper records into electronic images. That conversion would still require copying, scanning, or otherwise reproducing the paper records.

The RTKL does not require the Office to create a new electronic record, reformat paper records, or convert paper records into Requester's preferred format where the records are maintained in paper format.

The Office selected a direct and secure method: copy only the paper pages requiring redaction, redact those copies, review the redacted copies to ensure non-public information is not visible, and then provide access.

VI. THE OFFICE CONDUCTED A GOOD-FAITH SEARCH

The Office conducted a good-faith search reasonably calculated to identify responsive records within the possession, custody, or control of the Recorder of Deeds Office.

The Office reviewed the Request and searched locations reasonably likely to contain responsive records, including:

1. Recorder of Deeds Office paper files;
2. Office financial records;
3. Office operational records;
4. Office expenditure records;
5. Office administration records;
6. public communication and outreach records maintained by the Office;
7. website or technology-related records maintained by the Office, where applicable; and
8. records maintained by Office personnel with responsibility for the subject matter of the Request.



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The Office also coordinated with the Fayette County Open Records Officer as appropriate.

The RTKL does not require an agency to search every conceivable repository. It requires a good-faith search reasonably calculated to identify responsive records. The Office met that standard.

VII. SECTION 506(d) DOES NOT INVALIDATE THE PREPAYMENT REQUIREMENT

Requester suggests that responsive records may exist with contractors, vendors, website administrators, technology providers, or other third parties.

The Office does not dispute that Section 506(d) may apply in appropriate circumstances where records are maintained by a contractor and directly relate to a governmental function performed on behalf of an agency.

However, that issue does not invalidate the prepayment requirement for the paper records already identified by the Office. The prepayment estimate concerns approximately 860 responsive paper pages located by the Recorder of Deeds Office, including approximately 775 pages requiring copying and redaction before inspection.

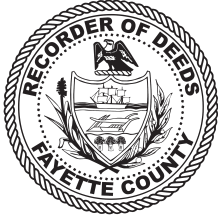
To the extent the Appeals Officer requests additional information concerning any specific third-party repository, the Office will provide such clarification.

VIII. COMPLETE FINANCIAL ACCOUNT NUMBERS MAY BE REDACTED

The responsive records include complete financial account numbers belonging to the Recorder of Deeds Office and/or the County of Fayette.

Disclosure of complete financial account numbers would create a reasonable likelihood of endangering the financial safety and security of the Office and the County. Such information can be used, alone or combined with other information, to attempt unauthorized withdrawals, fraudulent electronic transactions, creation or use of fraudulent checks, unauthorized access to public accounts, or diversion of public funds.

The redaction is narrow. The Office does not seek to withhold transaction dates, amounts, payees, payment purposes, or other public financial information. The Office seeks only to redact complete financial account numbers and other non-public information.



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Accordingly, complete financial account numbers may be redacted pursuant to Section 708(b)(3) of the RTKL while the remaining public portions of the records are made available.

IX. BAGWELL DOES NOT BAR THE OFFICE'S COPYING CHARGE

Requester relies on Pennsylvania Department of Education v. Bagwell, 131 A.3d 638 (Pa. Cmwlth. 2016), to argue that the Office cannot charge for copies created for internal review.

The Office is not charging for copies created for internal review. The Office is charging for copies that must be created to allow inspection of redacted paper records without exposing non-public information and without permanently altering original paper records.

Copies made merely for internal review are different from copies necessarily made because the original paper records contain exempt information and cannot be redacted directly.

Without creating redacted copies, the Office would either have to disclose non-public information or permanently alter original records. Neither result is required by the RTKL.

X. THE OFFICE HAS NOT DENIED ACCESS

The Office has not denied access to public records.

The Office identified responsive records, explained the statutory copy fee, identified the number of pages requiring redaction, explained why original paper records cannot be directly redacted, clarified that the requested payment is not a retainer, and remains ready to provide access after Requester selects an access option and pays the applicable lawful prepayment.

If Requester elects to receive copies of all responsive paper records, the estimated fee is \$430.00.

If Requester elects to inspect the responsive paper records, the estimated fee is \$387.50 because approximately 775 paper pages must be copied and redacted before inspection.

If Requester inspects the records and later requests the 775 redacted copies already created for inspection, the Office will not charge a second copying fee for those same 775 pages.



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XI. CONCLUSION

For the foregoing reasons, the Fayette County Office of the Recorder of Deeds respectfully requests that the Office of Open Records deny the appeal and uphold the Office's prepayment requirement and proposed redactions.

In the alternative, the Office respectfully requests that the Appeals Officer determine that:

1. The Office may charge \$0.50 per uncertified page pursuant to 42 P.S. § 21051;
2. The Office may require prepayment pursuant to 65 P.S. § 67.1307(h);
3. The estimated fee for copies of all 860 responsive paper pages is \$430.00;
4. The estimated fee for inspection is \$387.50 because approximately 775 paper pages must be copied and securely redacted before inspection;
5. The Office is not charging duplication fees for responsive electronic records that can be produced electronically without the creation of paper copies;
6. Complete financial account numbers may be redacted pursuant to Section 708(b)(3) of the RTKL; and
7. No additional copying fee will be imposed if Requester obtains the 775 redacted copies already created and paid for following inspection.

Respectfully submitted,

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Date: July 9, 2026