

pennsylvania
OFFICE OF OPEN RECORDS
FINAL DETERMINATION

IN THE MATTER OF :
 :
MATTHEW DOWLING, :
Requester :
 :
v. : **Docket No: AP 2026-2429**
 :
FAYETTE COUNTY RECORDER OF :
DEEDS OFFICE, :
Respondent :

FACTUAL BACKGROUND

On May 29, 2026, Matthew Dowling (“Requester”) submitted a 63-item request (“Request”) to Fayette County (“County”)¹ pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, generally seeking “records concerning the Recorder of Deeds Office, the Automation Fund, Records Improvement Fund, public communications, procurement activities, advertising, sponsorships, renovations, contracts, audit findings, website administration, social-media administration, and related matters occurring between January 1, 2022 and the date [the Office] conducts its search for responsive records.” *See* Request, Items 1-63.² That same day, the

¹ As a way of background, the Request was submitted to the County; however, the responsive records are in the possession of the Fayette County Recorder of Deeds Office (“Office”). The OOR further notes that the Office and County have separate right-to-know officers and webpages and, therefore, appear to be separate agencies for purposes of the RTKL. Accordingly, we will treat the appeal as filed against the Office.

² The Requester marked “NO” for wanting copies and certified copies of records. The Requester further indicated that “[e]lectronic production of responsive records is preferred whenever available.”

County, on behalf of the Office, invoked its right to a thirty-day extension during which to respond. 65 P.S. § 67.902(b).

On June 9, 2026, the Office sent the Requester correspondence, stating that the Office “has identified approximately 860 uncertified pages responsive” to the Request and that the estimated duplication fee “is calculated as follows: 860 pages x \$.50 per page = \$430.00.” The Office further states that if the Requester wishes to inspect the responsive records, it “must still print approximately 775 pages in order to securely redact non-public information before inspection” and that “[t]he estimated duplication fee for inspection is calculated as follows: 775 pages x \$0.50 per page = \$387.50.”³

On June 18, 2026, the County sent the Office’s June 9, 2026 letter to the Requester, reiterating the estimated fee cost. The Office also stated that “a non-refundable retainer fee is required before [it] can begin processing [the R]equest” and that “[o]nce the records have been compiled and [the R]equest has been completed, additional fees may apply based on the actual costs incurred.”

On June 18, 2026, the Requester filed an appeal with the Office of Open Records (“OOR”), challenging the Office’s prepayment notice. The Requester argues, among other things, that “[t]he responsive records are believed to exist in electronic format,” that “modern electronic redaction tools eliminate the need for paper copies,” and that “the Office routinely utilizes electronic records and electronic publication.” The OOR invited both parties to supplement the record and directed the Office to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).⁴

³ The Office indicated that 85 pages did not require printing for redaction purposes.

⁴ On July 25, 2026, the Office, through Jon Marietta, the Recorder of Deeds for the County submitted a Request to Participate in this matter, asserting that the Office has a direct interest in the records at issue. That same day, the OOR granted the Office’s Request to Participate. However, as noted above, the Office is a separate agency and the appeal should have been filed against the Office.

On June 25, 2026, the Office, through Jon Marietta, the Recorder of Deeds for the County, submitted a Request to Participate in this matter, asserting that the Office has a direct interest in the records at issue. That same day, the OOR granted the Office's Request to Participate.

On July 1, 2026, the Office submitted a position statement, reiterating its argument that the fees imposed are proper. More specifically, the Office argues that "[t]he responsive records located by the Office are maintained in paper format rather than digital format" and that "[c]ertain responsive records contain complete financial account numbers belonging to [the Office] and/or [the County]." Further, the Office asserts that it "did not impose any charge for searching for records, retrieving records, reviewing records, legal review, employee time, or the act of redacting information." In support of its position, the Office submitted the attestation of Jon Marietta, Jr. ("Marietta Attestation"), Records of Deeds for the County and Open Records Officer ("AORO") for the Office.

On July 9, 2026, the Office submitted a supplemental position statement, reiterating its argument that the fees imposed are proper. 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." In addition, the Office explains that the requested amount is not a retainer but "is an estimated prepayment of authorized copying fees under 65 P.S. § 67.1307(h)" and that it "conducted a good-faith search reasonably calculated to identify responsive records within the possession, custody, or control of the [Office]." In support of its position, the Office submitted the supplemental attestation of Jon Marietta, Jr. ("Marietta Supplemental Attestation").

On July 9, 2026, the Requester submitted a position statement,⁵ limiting the appeal to the following questions:

⁵ The position statement was made pursuant to 18 Pa.C.S. § 4904.

- i. Whether the [Office] has established the factual basis supporting the challenged duplication assessment;
- ii. Whether the [Office] has established why documented electronic review and redactions methods could not reasonably be utilized; and
- iii. Whether the [Office] has established that it conducted a search reasonably calculated to identify all responsive records required by the RTKL.

That same day, the Requester submitted a responsive position statement, arguing, among other things, that the Office “may not charge for copies created as part of its internal workflow[;] Section 1307(g) of the RTKL prohibits fees for record review[;] the [Office] has not satisfied its burden regarding electronic records[;] and the [Office’s] claim under Section 708(b)(3) is insufficient[.]”

On August 3, 2026, the Requester submitted an additional position statement, reiterating prior arguments raised before the OOR. That same day, the Office submitted an additional position statement, objecting to the Requester’s untimely position statement and reiterating prior arguments raised before the OOR.⁶

LEGAL ANALYSIS

The Office is a local agency subject to the RTKL. 65 P.S. § 67.302. Records in the possession of a local agency are presumed to be public, unless exempt under the RTKL or other law or protected by a privilege, judicial order or decree. *See* 65 P.S. § 67.305. As an agency subject to the RTKL, the Office is required to demonstrate, “by a preponderance of the evidence,” that records are exempt from public access. 65 P.S. § 67.708(a)(1). Preponderance of the evidence has been defined as “such proof as leads the fact-finder ... to find that the existence of a contested fact is more probable than its nonexistence.” *Pa. State Troopers Ass’n v. Scolforo*, 18 A.3d 435, 439 (Pa. Commw. Ct. 2011) (quoting *Pa. Dep’t of Transp. v. Agric. Lands Condemnation Approval Bd.*, 5 A.3d 821, 827 (Pa. Commw. Ct. 2010)).

⁶ The OOR accepts the Requester’s submission into the record. *See* 65 P.S. § 67.1102(a)(2).

The Requester argues that the Office inappropriately charged him a duplication fee. The Office states that the duplication fee was for records that exist in paper format only and require redactions, and therefore, it charged a fee of \$430.00 for the approximately 860 uncertified responsive paper records and, to the extent the Requester seeks inspection only, a fee of \$387.50 for the 775 pages of records that require redaction.

Section 701 of the RTKL provides that “[a] record being provided to a requester shall be provided in the medium requested if it exists in that medium; otherwise, it shall be provided in the medium in which it exists.” 65 P.S. § 67.701. The RTKL does not define “medium;” however, the OOR has defined it “as the substance through which something is transmitted or carried, a ‘means,’ such as on paper or on the hard-drive or on a database or over the internet.” *Acton v. Fort Cherry Sch. Dist.*, OOR Dkt. AP 2009-0926, 2009 PA O.O.R.D. LEXIS 786, *aff’d*, No. 2010-719 (Wash. Com. Pl. July 26, 2011), *aff’d*, 38 A.3d 1092 (Pa. Commw. Ct. 2012), *petition for allowance of appeal denied*, 57 A.3d 72 (Pa. 2012). “Under the RTKL, ‘medium’ is a broad term, and ‘electronic medium’ encompasses all electronic formats.”

Section 705 of the RTKL frees agencies from the obligation “to create a record which does not currently exist or to compile, maintain, format or organize a record in a manner in which the agency does not currently compile, maintain, format or organize the record.” 65 P.S. § 67.705; *see also Moore v. Off. of Open Records*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010) (holding that an agency cannot be made to create a record that does not exist). In accordance with Section 705 of the RTKL, the Office is not required to convert these records into an electronic medium. *See* 65 P.S. § 67.705; *Ayoob v. Glenfield Borough*, OOR Dkt. AP 2021-1513, 2021 PA O.O.R.D. LEXIS 1516 (acknowledging that the agency was not required to create electronic copies of records that existed only as hard copies); *Ayoob v. Haysville Borough*, OOR Dkt. AP 2021-1565, 2021 PA O.O.R.D. LEXIS 1651 (same).

The Office's evidence demonstrates that it maintains the responsive records in paper format only and that it is required to redact the complete financial account numbers belonging to the Office and/or the County. In support of its argument that redactions are proper, the Marietta Supplemental Attestation provides, in relevant part:

26. Certain responsive records contain complete financial account numbers belonging to the Recorder of Deeds Office and/or the County of Fayette.
27. Complete financial account numbers can be used or combined with other information to attempt unauthorized withdrawals, fraudulent electronic transactions, the creation or use of fraudulent checks, or other unauthorized transactions involving public funds.
28. Disclosure of complete financial account numbers would create a reasonable likelihood of danger to the financial safety and security of the [Office] and/or the [County].
29. Unauthorized access to, withdrawal from, or restriction of affected accounts could result in the loss or diversion of public funds and could delay, disrupt, or impede the daily administrative and financial operations of the [] Office and the County.
30. Redacting complete financial account numbers will not prevent Requester from reviewing responsive public financial information, including transaction dates, amounts, payees, payment purposes, and other account activity.

Section 708(b)(1)(i) of the RTKL exempts from disclosure a records that if disclosed “would result in the loss of Federal or State funds by an agency or the Commonwealth.” The OOR has found that bank account numbers may be redacted under one of the RTKL's security exemptions where an agency presents evidence of a threat. *See Davies v. Greene Twp.*, OOR. Dkt. AP 2023-3129, 2024 PA O.O.R.D. LEXIS 259 (finding that the agency had provided an adequate factual basis to justify the redaction of bank account numbers as a necessary security measure); *Myer v. Radnor Twp.*, OOR Dkt. AP 2023-2422, 2023 PA O.O.R.D. LEXIS 2764 (holding that bank account numbers were appropriately redacted to prevent unauthorized access to agency funds). As the Office has provided evidence that the disclosure of its financial account information

could result in the loss or diversion of public funds, the District has met its burden of proving that it appropriately redacted this information.⁷ 65 P.S. § 67.706.

Thus, because the responsive records exist in paper format only and the Office has demonstrated that redactions are proper, we must now determine whether the fee imposed is proper. Here, the evidence demonstrates that the records sought are in the possession of the Office. *See generally*, Marietta Attestation, ¶¶ 1-21. Although the Requester objections to the mandatory payment of fees in order to obtain the responsive records and raise other grounds for appeal,⁸ it is well settled that the Office has broad discretion to set duplication fees, electronic access fees, and mailing fees under the authority of 42 P.S. § 21051. *See also*, *Gentile v. Washington Cnty. Recorder of Deeds*, OOR Dkt. AP 2011-1656, 2012 PA O.O.R.D. LEXIS 423; *Guarrasi v. Montgomery Cnty. Office of the Recorder of Deeds*, OOR Dkt. 2015-1881, 2015 OA O.O.R.D. LEXIS 1631; *Nurse v. Schuylkill Cnty.*, OOR Dkt. 2024-2262, 2024 OA O.O.R.D. LEXIS 2573 (finding that the County provided all methods for the requester to access responsive records with the Recorder of Deeds, affirming that the Recorder of Deeds has broad discretion to set its fees). Therefore, the OOR determines that the appeal must be denied.

CONCLUSION

For the foregoing reasons, the appeal is **denied**, and the Office is not required to take any further action without consent and payment of the copying fees imposed under 42 P.S. § 21051, depending on whether the Requester wants copies of all the responsive records or the opportunity

⁷ However, to the extent the redacted financial account information contains bank routing numbers, those numbers are public and must be disclosed. *See Monaghan v. Lycoming Cnty.*, OOR Dkt. Ap 2025-3834, 2026 PA O.O.R.D. LEXIS 721, *7 (explaining that bank routing numbers are public because banks post their routing number on their webpages and regularly hold the numbers out to the public (citations omitted)).

⁸ The OOR notes that the Requester challenges the Office's good-faith search for responsive records; however, the Requester cannot make that challenge without first reviewing the records responsive to his Request and making the determination whether the records provided satisfies his Request. Nothing in this Final Determination precludes the Requester after receiving or viewing the responsive records from filing an appeal pursuant to the requirements of 65 P.S. § 67.1101(a)(1).

to inspect the responsive records. This Final Determination is binding on all parties. Within thirty days of the mailing date of this Final Determination, any party may appeal to the Fayette County Court of Common Pleas. 65 P.S. § 67.1302(a). All parties must be served with notice of the appeal. The OOR also shall be served notice and have an opportunity to respond according to court rules as per 65 P.S. § 67.1303, but as the quasi-judicial tribunal adjudicating this matter, the OOR is not a proper party to any appeal and should not be named as a party.⁹ All documents or communications following the issuance of this Final Determination shall be sent to oor-postfd@pa.gov. This Final Determination shall be placed on the OOR website at: <http://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: August 21, 2026

/s/ Lyle Hartranft

LYLE HARTRANFT, ESQ.
APPEALS OFFICER

Sent via e-file portal to: Matthew Dowling; Morgan Keteles, AORO; Jon Marietta, AORO

⁹ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).