



pennsylvania

OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF	:	
	:	
DOUGLAS BOYD,	:	
Requester	:	
	:	
v.	:	Docket No: AP 2026-1411
	:	
SENECA VALLEY SCHOOL DISTRICT,	:	
Respondent	:	

FACTUAL BACKGROUND

On March 2, 2026, Douglas Boyd (“Requester”) submitted a request (“Request”) to the Seneca Valley School District (“District”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking:

1. A copy of the General Construction Agreement between Massaro Corporation and the District.
2. The names of Massaro Corporation[’]s project representatives for the following positions - Project Superintendent, Project Manager, and Project Executive.
3. A copy of the Agreement between CanonDesign and the District for Construction Administration services.
4. A copy of the Agreement between Eckles and the District for Owner’s Representative services.
5. PDF copies of the architectural plans and elevations.
6. A PDF copy of the Approved Baseline Construction Schedule[.]

As the project progresses[:]

7. Access to or copies of the Monthly Construction Schedule Updates[:]
8. Access to or copies of the Monthly Job Progress Meetings and Reports[:]
9. Access to or copies of the Monthly Change Order Request (COR) Logs[: and]
10. Access to or copies of the Monthly Approved Change Order Logs.

On March 31, 2026, following a thirty-day extension during which to respond,¹ 65 P.S. § 67.902(b), the District partially granted the Request and provided records responsive to Items 2 and 4 of the Request. The District denied Items 6 through 10, claiming responsive records do not exist in its possession, custody or control. The District additionally denied Items 1, 3 and 5 of the Request, claiming the responsive architectural plans and elevations, as well as the contracts with Massaro Corporation and CannonDesign, are protected from duplication under the Copyright Act, 17 U.S.C. §§ 106, 501, and as a result, said records are available for in-person inspection at the District offices upon the scheduling of an appointment. Lastly, the District additionally denied Item 5 of the Request, claiming that the disclosure of the responsive records is likely to threaten the personal security of an individual and public infrastructure, 65 P.S. §§ 67.708(b)(1), (3).²

On April 8, 2026, the Requester filed an appeal with the Office of Open Records (“OOR”), challenging the denial and stating grounds for disclosure.³ Specifically, the Requester claims since the District is permitting inspection of the records responsive to Items 1 and 3 of the Request, those records are not protected by the Copyright Act. The OOR invited both parties to supplement the

¹ At the request of the OOR, on April 13, 2026, the Requester submitted a copy of the District’s thirty-day extension letter.

² As the Requester did not appeal the District’s response to Items 2, 4 and Items 6 through 10, these Items and the District’s response thereto will not be further addressed in this Final Determination.

³ The Requester granted the OOR a thirty-day extension to issue a Final Determination. *See* 65 P.S. § 67.1101(b)(1) (“Unless the requester agrees otherwise, the appeals officer shall make a final determination which shall be mailed to the requester and the agency within 30 days of receipt of the appeal filed under subsection (a).”).

record and directed the District to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

On April 20, 2026, the District submitted a position statement, reiterating the basis for denial of the Request. In support of the District's position, the District submitted an attestation made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities, authored by Ian Hunter ("Hunter Attestation"), the District's Agency Open Records Officer ("AORO").

LEGAL ANALYSIS

The District 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 District 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)).

1. The District has demonstrated records responsive to Item 5 are exempt pursuant to Sections 708(b)(1)(ii) and (b)(3) of the RTKL

The District argues that the architectural plans and elevations withheld that are responsive to Item 5 are not subject to disclosure. 65 P.S. §§ 67.708(b)(1)(ii), (b)(3). As noted, the Requester challenges the withholding in full of these plans.

Section 708(b)(1)(ii) of the RTKL exempts from disclosure a record that "would be reasonably likely to result in a substantial and demonstrable risk of physical harm to or the personal

security of an individual.” 65 P.S. § 67.708(b)(1)(ii). To establish that this exemption applies, an agency must show: (1) a “reasonable likelihood” of (2) “substantial and demonstrable risk” to a person’s security. *Del. County v. Schaefer*, 45 A.3d 1149 (Pa. Commw. Ct. 2012). The Commonwealth Court has held that “[b]elief alone without more, even if reasonable, does not meet this heightened standard.” *See Lutz v. City of Phila.*, 6 A.3d 669, 676 (Pa. Commw. Ct. 2010) (holding that “[m]ore than mere conjecture is needed” to establish that this exemption applies). Further, the Commonwealth Court has “defined substantial and demonstrable [risk] as actual or real and apparent.” *Borough of Pottstown v. Suber-Aponte*, 202 A.3d 173, 180 (Pa. Commw. Ct. 2019) (quoting *Carey v. Pa. Dep’t of Corr.*, 61 A.3d 367, 373 (Pa. Commw. Ct. 2013)).

Similarly, Section 708(b)(3) of the RTKL exempts “[a] record, the disclosure of which creates a reasonable likelihood of endangering the safety or the physical security of a building, public utility, infrastructure, facility or information storage system.” 65 P.S. § 67.708(b)(3). In order for this exemption to apply, “the disclosure of” the records—rather than the records themselves—must create a reasonable likelihood of endangerment to the safety or physical security of certain structures or other entities, including infrastructure. *Id.*

In order to show a reasonable likelihood, “[a]n agency must offer more than speculation or conjecture to establish the security-related exceptions under the [RTKL].” *California Borough v. Rothey*, 185 A.3d 456 (Pa. Commw. Ct. 2018). In support of the District’s argument that the withholding of the records responsive to Item 5 of the Request is appropriate, the Hunter Attestation indicates, in relevant part, the following:

28. The records requested in [Item] 5 of the Request reveal detailed nonpublic information concerning the internal configuration of buildings and facilities within the District, the structural layouts of the buildings, and infrastructure systems of District buildings, including entrances, exits, corridors, classrooms, offices, utility areas, mechanical spaces, fire suppression systems, access points, and safety

systems.

29. Based on my years of experience in education, it is my opinion that the disclosure of the records requested in [Item] 5 would be reasonably likely to result in a substantial and demonstrable risk of physical harm to or the personal security of students, teachers, and other individuals in the District, would jeopardize the personal security of students, staff, and visitors within the District, and create a reasonable likelihood of endangering the safety and physical security of buildings in the District.

30. I also discussed [Item] 5 of the Request with the District's Police Department.

31. The District's Police Department agrees that providing the architectural plans and elevations could result in serious physical harm to students and staff and create a reasonable likelihood of endangering the safety and physical security of the buildings within the District.

32. Specifically, I discussed [Item] 5 of the Request with Officer Jason Young, the District's Safety and Security Director ("Officer Young").

33. Officer Young explained that the District's Police Department is legally responsible and obligated to provide a safe and secure environment to foster the education for all students and staff in the District.

34. Mr. Young made it clear that the disclosure of any fire suppression systems would reveal system layouts, control points, and potential vulnerabilities that could be exploited to disable or circumvent protection measures, information that is not otherwise publicly available or readily observable from the public view.

35. With respect to utility infrastructure, the architectural plans and elevations depict the placement, access points, and pathways of critical electrical, water, gas, and related building systems, which information is not otherwise visible or readily ascertainable from public view, and the disclosure of this information would reveal where those systems may be interrupted, disabled, or accessed, and Mr. Young explained that interference with those systems could disrupt essential life-saving services, create hazardous conditions, and impair school operations.

36. Mr. Young further explained to me that the disclosure of architectural plans and elevations would reveal structural load paths and identify key load-bearing components, thereby enabling an individual to target critical elements in a manner that would compromise the structural integrity of the facility.

37. Finally, Mr. Young made clear to me that the disclosure of the records requested in [Item] 5 of the Request would reveal communication pathways and expose vulnerabilities that could be exploited to disrupt internal communications,

impair system functionality, or interfere with emergency response coordination.

...

43. The District is entrusted daily with the protection of its students, faculty, staff, and visitors.

...

47. [Item] 5 of the Request seeks detailed blueprints of the new District building, i.e., the requested copies of the architectural plans and elevations, which disclose details on the configuration of the new building.

48. The requested records reveal structural elements of the District including communication systems and electrical systems, and the disclosure of which represent a risk of harm to the individuals working in these spaces and a threat to the physical safety and security of the building and critical infrastructure.

49. The District does not advertise its architectural plans to the public.

50. The architectural plans and elevations cannot be ascertained by public observation.

51. Members of the public may not freely roam around spaces to ascertain details about the layout of the buildings and electrical systems.

52. Disclosing the architectural plans that Mr. Boyd is requesting would create a reasonable likelihood of endangering the safety or the physical security of the areas within the buildings in the District, would be reasonably likely to result in a substantial and demonstrable risk of physical harm to the students, teachers, staff, and visitors in the buildings, and would be reasonably likely to jeopardize or threaten public safety or preparedness.

53. The records requested would provide information to facilitate an attack on the District beyond what the attacker could get from casual observation.

54. Architectural plans are inherently sensitive documents because they consolidate nonpublic information unavailable through casual observation.

55. A member of the public may observe exterior doors or general building features, but the architectural plans reveal the internal configurations of buildings and facilities, corridor connections, stairwells, restricted areas, utility systems, mechanical rooms, access points, structural layouts, and other operational details

concealed from public view.

...

57. The non-public information contained in the architectural plans can be used by an attacker to identify lesser-known entry points, identify the fastest routes to student-occupied areas, choke points, locate utility control areas and alarm systems, and identify locations where security measures may be disrupted.

58. It may also impair emergency response by exposing internal circulation patterns and critical infrastructure.

59. These risks are the predictable consequence of releasing comprehensive architectural plans of the buildings in the District that are not available to the public through casual observation and is non-public information.

...

65. The District maintains heightened security where it houses minors and the consequences of a security breach are uniquely severe.

...

70. Based upon the foregoing and my conversation with Mr. Young, it is my opinion that releasing the architectural plans and elevations requested by [the Requester] will create a reasonable likelihood of a substantial and demonstrable risk of physical harm to the students and other individuals inside the District's buildings and would create a reasonable likelihood of endangering the safety or physical security of the buildings in the District.

71. In other words, the public disclosure of the records requested in [Item] 5 of the Request would create a reasonable likelihood of endangering the safety or physical security of the District's buildings and a substantial and demonstrable risk of physical harm to the students, staff, and visitors by providing detailed information that could be used to identify vulnerabilities, circumvent security measures, interference with emergency response, or facilitate unauthorized access.

72. The disclosure of the requested records makes the District vulnerable to a terrorist attack or acts of crime and violence.

...

74. Therefore, the District withheld the requested records containing details about the configuration and security of critical systems including public utility systems, structural elements, technology, communication, electrical, security systems, fire suppression, layout, utility piping route, structural load paths, water, wastewater,

sewage, gas systems, and communication design creates a reasonable likelihood of endangering the safety and physical security of the buildings in the District.

Under the RTKL, a sworn affidavit or statement made under the penalty of perjury may serve as sufficient evidentiary support. *See Sherry v. Radnor Twp. Sch. Dist.*, 20 A.3d 515, 520-21 (Pa. Commw. Ct. 2011); *Moore v. Office of Open Records*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010). In the absence of any evidence that the District has acted in bad faith or that responsive records exist, “the averments in the [attestation] should be accepted as true.” *McGowan v. Pa. Dep’t of Env’tl. Prot.*, 103 A.3d 374, 382-83 (Pa. Commw. Ct. 2014) (citing *Office of the Governor v. Scolforo*, 65 A.3d 1095, 1103 (Pa. Commw. Ct. 2013)).

The Hunter Attestation is authored by the District’s AORO, who has reviewed the responsive plans, and provides information obtained from the District’s Safety and Security Director, and individual charged with the safety of the District as a whole. The Hunter Attestation establishes that disclosure of the withheld plans would be reasonably likely to result in a demonstrable risk of physical harm to the personal security of individuals and would endanger the physical security of a building or facility. *See* 65 P.S. §§ 67.708(b)(1)(ii), (b)(3). As noted above, to establish security-related exemptions under the RTKL, an agency must prove that the risk is more than mere speculation; it must be substantial, demonstrable and real or apparent. *See California Borough v. Rothey*, 185 A.3d 456, 468 (Pa. Commw. Ct. 2018); *see also Mission Pa. LLC v. McKelvey*, 212 A.3d 119 (Pa. Commw. Ct. 2019); *Schaefer*, 45 A.3d 1149.

In *Werner v. School District of Pittsburgh*, where a school district submitted an affidavit containing conclusory statements that did not contain any substantive information, or establish how release of the requested records would be reasonably likely to endanger the safety and physical security of the school infrastructure under Section 708(b)(3) of the RTKL, the OOR held that while “the School District presented evidence that records may reveal the location of pipes,

walls, lighting fixtures, exits and other information,” there was no evidence that the disclosure of these locations--the majority of which may already be publicly known--would be reasonably likely to jeopardize the safety or physical security of any school district building or structure. OOR Dkt. AP 2015-0478, 2015 PA O.O.R.D. LEXIS 507, *rev'd in part, School District of Pittsburgh v. Werner*, No. SA-15-000451 (Allegh. Com. Pl. Sept. 25, 2019).

Here, unlike in *Werner*, the District has submitted a detailed attestation which describes serious concerns for the safety of students, teachers and other individuals within the District should the architectural plans and elevations be disclosed. Specifically, the Officer Young details that the fire suppression systems, structural load paths, communication pathways are not readily visible to the public. Hunter Attestation ¶¶ 34-36, 48. Further, disclosure of these systems and pathways could lead to interference with the lifesaving services that such systems and pathways provide to the District building occupants. *Id.* Additionally, the District details that the plans reveal internal configurations that include restricted areas, access points and other operation details and areas that are concealed from public view. Hunter Attestation ¶ 55. These lesser known entry points, should they be disclosed, could lead to disruption of security measures and emergency response. Hunter Attestation ¶¶ 57, 58. Thus, the District has demonstrated that disclosure of the requested records “creates a reasonable likelihood of endangering the safety or the physical security of a building, public utility, resource, infrastructure, facility or information storage system,” as well as the personal safety of the individuals within said facility. 65 P.S. §§ 67.708(b)(1)(ii), (b)(3). The District’s evidence is not generic and conclusory, especially since the information sought is not visible to the public, as was the case in *Werner*.

The District’s evidence establishes a link between the disclosure of architectural plans and real and apparent harm. It is reasonably likely that public disclosure of such information, such as

fire suppression systems, structural load paths, communication pathways, would lead to the harm as set forth in the Hunter Attestation, i.e., disruption of emergency response, which would endanger the safety and well-being of the occupants of the District's buildings. Accordingly, the District has proven that the disclosure of the records responsive to Item 5 are likely to threaten personal and building security.

2. The District has permitted inspection of the records responsive to Items 1 and 3

The District argues that the two contracts responsive to Items 1 and 3 are protected by copyright. The Copyright Act precludes the reproduction of any copyrighted works without the consent of the copyright holder. *See* 17 U.S.C. §§ 106, 501. Copyright protection applies automatically to any original work of authorship, including literary, dramatic, musical, architectural, cartographic, choreographic, pantomimic, pictorial, graphic, sculptural, and audiovisual creations. 17 U.S.C. § 102(a). However, copyright protection does not extend to any idea, procedure, process, system, title, principle or discovery. 17 U.S.C. § 102(b). The District asserts that records responsive to Items 1, 3 and 5 may not be duplicated, but may be accessed by inspection at the District property. The District relies, in part, on *Ali v. Philadelphia City Plan. Comm'n*, 125 A.3d 92, 99–100 (Pa. Commw. Ct. 2015).

In *Ali v. Philadelphia City Planning Commission*, the Commonwealth Court held that the Copyright Act does not “exempt [] materials from disclosure under the RTKL”; instead, it “limits the level of access to a public record only with respect to duplication, not inspection.” 125 A.3d at 101-05. As in this matter, the dispute does not involve the public nature of the records, rather access to the records. In *Ali*, the Commonwealth Court further explained:

Because we lack jurisdiction under federal law to resolve the question of whether a local agency's disclosure of copyrighted material pursuant to the RTKL without the owner's consent constitutes infringement under the Copyright Act, where a local

agency has refused to duplicate a public record in response to a RTKL request by invoking the Copyright Act, our review must be confined to determining whether the local agency has met its burden of proving facts sufficient to show that forced duplication of copyrighted material under the RTKL implicates rights and potential liabilities arising under the Copyright Act that can only be resolved by the federal courts.

... [W]e hold that where a local agency invokes the Copyright Act as a basis to limit access to a public record to inspection only, the absence of consent by the copyright owner to duplication in response to a RTKL request should be presumed.

125 A.3d at 104-05.

In support of the District's argument, the Hunter Attestation provides:

12. In response to [Items] 1 and 3 of the Request, I obtained a copy of the General Construction Agreement between Massaro Corporation and the District ("Massaro Contract") and a copy of the Agreement between CanonDesign and the District for Construction Administration services ("CanonDesign Contract") (collectively referred to as the "Contracts").

13. Upon obtaining the Massaro Contract and CanonDesign Contract, I discovered that both Contracts were protected by the Copyright Act.

14. The Massaro Contract is protected under a copyright held by the American Institute of Architects.

15. The CanonDesign Contract is protected under a copyright held by the American Institute of Architects.

16. Both the Massaro Contract and the CanonDesign Contract contain copyright notices and language pertaining to their respective copyrights.

17. After further investigation, I discovered on the American Institute of Architects' ("AIA") website, FAQs: Copying AIA Contract Documents - AIA Contract Documents, that it states: "AIA Contract Documents are copyrighted, and posting, scanning, retyping, or copying them without written permission from the AIA violated federal copyright law. Requests for licenses or permission can be made via email to docinfo@aicontracts.com. The same applies to extracting provisions from AIA documents for use in other contracts."

18. Additionally, on the AIA website, under frequently asked questions, one of the questions states: "Can I post a draft document or a completed document on a website either for use on a specific project or to describe my firm or company?" The answer from the AIA website says "You may not post to a public website any

AIA Contract Document unless you have a separately written license from the AIA. Requests for a license may be made by email to docinfo@aiacontracts.com.”

19. Thus, both Contracts are protected under a copyright held by a third-party.

...

23. The District does not have the copyright holders’ consent to duplicate the records requested in [Items] 1 and 3 of the Request and is not required to request it.

24. Accordingly, the District provided Requester the opportunity to inspect the Contracts, but not[,] copy[,] the Contracts.

The District has identified records that are subject to the Copyright Act. Therefore, the District properly found that those records are subject to the Copyright Act and need only provide access to inspect those records. *See Smith v. West Chester Area Sch. Dist.*, OOR Dkt. AP 2022-1674, 2022 PA O.O.R.D. LEXIS 2123 (finding that “to the extent that any attachments or other records are subject to the Copyright Act, the District must provide access to inspect the records”). The OOR cannot order the District to allow the copying of copyrighted material responsive to Items 1, 3 and 5. Accordingly, the appeal is dismissed as moot with respect to Items 1 and 3 of the Request, as the District has provided the Requester with an opportunity to inspect the responsive records in-person via scheduling an appointment with the District’s AORO. Hunter Attestation ¶ 24.

CONCLUSION

For the foregoing reasons, the appeal is **denied in part** and **dismissed as moot in part**, and the District is not required to take any further action. 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 Butler 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 as per Section 1303 of the RTKL; however, 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.⁴ 65 P.S. § 67.1303.

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: June 10, 2026

/s/ Bandy L. Jarosz

BANDY L. JAROSZ, ESQ.
APPEALS OFFICER

Sent to: Douglas Boyd (via portal only)
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Ian Hunter (via portal only)

⁴ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).