



FINAL DETERMINATION

IN THE MATTER OF	:
	:
RAYMOND HOFELDER,	:
Requester	:
	:
v.	: Docket No: AP 2026-3369
	:
YARDLEY BOROUGH,	:
Respondent	:

FACTUAL BACKGROUND

On July 27, 2026, Raymond Hofelder (“Requester”) submitted a request (“Request”) to Yardley Borough (“Borough”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking the following: copies of Yardley Borough building permits, zoning permits, building and zoning applications, structural plans (including concrete foundation, footings, steps, and roof details), and contractor insurance certificates submitted in connection with the construction of the front porch with a roof and steps at an identified location for the date range January 1, 2026, through July 29, 2026.

On July 28, 2026, the Borough issued a response granting in part and denying in part the Request. The Borough provided responsive construction permits, noting that the owner and contractor were the same individual and therefore the owner assumed responsibility for workers’ compensation coverage and certificate of insurance requirements. The Borough denied the Request

for permit applications, building plans, inspection reports and similar structural or technical documents under Section 403.85(e) of the Uniform Construction Code (“UCC”). 34 Pa. Code. § 403.85(e). The Borough also denied building plans and system plans, asserting that the records, if disclosed, would compromise security. 65 P.S. § 708(b)(3)(iii). The Borough also clarified that with respect to the porch construction, the building permits do not specifically reference the construction of a porch, but this was included in the permit application, which was withheld under the UCC.

On August 16, 2026, the Requester filed an appeal with the Office of Open Records (“OOR”), challenging the denial and stating grounds for disclosure. The OOR invited both parties to supplement the record and directed the Borough to notify the OOR if any third parties have a direct interest in this appeal. 65 P.S. § 67.1101(c).

LEGAL ANALYSIS

The Borough 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 Borough 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)).

The Borough asserts that responsive records do not need to be disclosed pursuant to the UCC. The UCC states, in part:

The Department, a municipality and a third-party agency acting on behalf of a municipality may prohibit release of applications received, building plans and specifications, inspection reports and similar documents to the public under the [RTKL]. The Department, the municipality or the third-party agency may release these documents to the building owner of record, the permit holder, the design professional of record or a third party authorized by the building owner in writing to receive the documents upon presentation of valid identification.

34 Pa. Code § 403.85(e). The UCC expressly states that a municipality may prohibit the release of “applications received, building plans and specifications, inspection reports and similar documents.” *See Reynolds v. Ross Township*, OOR Dkt. AP 2011-1421, 2011 PA O.O.R.D. LEXIS 1085; *see also Pohlman v. Middle Smithfield Township*, OOR Dkt. AP 2011-0660, 2011 PA O.O.R.D. LEXIS 457. Pursuant to Section 102 of the RTKL, any record that is “exempt from being disclosed under any Federal or State law or regulation or judicial order or decree” is not a public record. 65 P.S. § 67.102; *GLP Architects, P.C. v. City of Phila.*, OOR Dkt. 2014-1861, 2015 PA O.O.R.D. LEXIS 88, *14-15.

The UCC further states, in pertinent part:

The Uniform Construction Code applies to the construction, alteration, repair, movement, equipment, removal, demolition, location, maintenance, occupancy or change of occupancy of every building or structure which occurs on or after April 9, 2004, and all existing structures that are not legally occupied.

(b) Exclusions and exemptions. The Uniform Construction Code does not apply to:

(1) New buildings or renovations to existing buildings for which an application for a permit was made to the Department of a municipality before April 9, 2004.

(2) New buildings or renovations to existing buildings on which a contract for design or construction was signed before April 9, 2004.

34 Pa. Code § 403.1(a)(1) and 403.1(b)(1) and (2).

In this matter, the Borough submits the attestation of Patricia Sargent, (“Sargent Attestation”), the Financial Assistant for the Borough. Ms. Sargent attests that following the receipt of the Request, a search was initiated under the direction of the Borough Manager and Open

Records Officer, Paula Johnson.¹ Sargent Attestation, ¶6. Ms. Sargent attests that the search was initiated by Ms. Johnson, herself, and Recording Secretary and RTK Assistant Kathryn Wessels. *Id.* The Borough’s record search located building permits, building permit applications, and building plans. *Id.* at ¶7. No zoning permits or zoning applications were located, and the Borough has not received any zoning applications pertaining to the property. *Id.* at ¶8. Furthermore, the Requester is not the building owner of record, permit holder, or design professional of record. *See* Position Statement; *see also* Sargent Attestation, ¶15. The Borough supplied the building permits to the Requester. However, the Sargent Attestation states that permit applications and building plans were withheld as being exempt under Section 403.95(e) of the UCC and Section 708(b)(3)(iii) of the RTKL. Sargent Attestation, ¶¶10, 12. As the RTKL yields to other State laws or regulations, permit applications are not subject to public disclosure under the RTKL, and the Borough properly withheld those responsive records. 34 Pa. Code § 403.95(e).

However, the Request specifically does not ask for “building plans” but instead asks for “structural plans.” The Borough uses these words interchangeably and never addresses the Request for structural plans. Under the UCC, structure is defined as “[a] combination of materials that are built or constructed with a permanent location or attached to something that has a permanent location.” 34 Pa. Code § 401.1 The UCC further states that the Borough may prohibit the release of the following: applications received, building plans and specifications, inspection reports and **similar documents**. 34 Pa. Code § 403.85(e) (emphasis added). Although “structural plans” are not defined within the UCC, based upon the definition of structure, it is reasonable to interpret the Request as seeking the plans outlining the materials and specifications regarding the construction

¹ During the pendency of this appeal, Ms. Johnson was out of the office due to a personal matter and delegated the responsibility of the appeal issue to Ms. Sargent. Sargent Attestation, ¶3.

of the front porch with the roof and steps. However, as this would be a similar document to building plans, we find the Borough appropriately denied the Request as exempt under the UCC. *Id.*

In sum, the building permits were supplied to the Requester. The Borough proved by a preponderance of the evidence that zoning permits, zoning applications, and certificates of contractor insurance do not exist in its possession, custody or control and the Borough's denial of the structural plans was appropriate as exempt under the UCC.² With respect to the Requester's argument that this was a bad faith denial of his Request, the OOR declines to make this finding as the responsive records were properly withheld.

CONCLUSION

For the foregoing reasons, the appeal is **denied**, and the Borough 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 or petition for review to the Bucks 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.³ 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 website at: <http://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: September 9, 2026

² The Borough also argues that the building plans are exempt under Section 708(b)(3) of the RTKL as disclosure of such records would create a reasonably likelihood of endangering the safety or physical security of a building. 65 P.S. § 67.708(b)(3). However, the OOR need not address this argument as building plans were not requested and the structural plans are exempt under the UCC.

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

/s/ Meryl M. Peterman

MERYL M. PETERMAN, ESQ.
APPEALS OFFICER

Sent via OOR E-file appeal portal to:

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