



The Commonwealth of Massachusetts
William Francis Galvin, Secretary of the Commonwealth
Public Records Division

Manza Arthur
Supervisor of Records

October 3, 2025
SPR25/2765

Ashley E. Melnik
City Clerk
City of Revere
281 Broadway
Revere, MA 02151

Dear Ms. Melnik:

I have received the petition of Robert Bamberg appealing the response of the City of Revere (City) to a request for public records. See G. L. c. 66, § 10A; see also 950 C.M.R. 32.08(1). On August 28, 2025, Mr. Bamberg requested “detailed maps showing all city, state, public and private utility lines that run through the Point of Pines. Specifically I am looking for maps that include Delano Ave, Alden Ave, and Bickford Ave, along with a span of the Lynnway that abuts each of these 3 streets.” On the same day, Mr. Bamberg stated “I’d like to amend my original information request with the city to be for detailed utility maps of the area from before and after construction of the new Alden Mills Firehouse.”

The City responded on September 2, 2025. Unsatisfied with the City’s response, Mr. Bamberg petitioned this office, and this appeal, SPR25/2765, was opened as a result.

The Public Records Law

The Public Records Law strongly favors disclosure by creating a presumption that all governmental records are public records. G. L. c. 66, § 10A(d); 950 C.M.R. 32.03(4). “Public records” is broadly defined to include all documentary materials or data, regardless of physical form or characteristics, made or received by any officer or employee of any agency or municipality of the Commonwealth, unless falling within a statutory exemption. G. L. c. 4, § 7(26).

It is the burden of the records custodian to demonstrate the application of an exemption in order to withhold a requested record. G. L. c. 66, § 10(b)(iv); 950 C.M.R. 32.06(3); see also Dist. Attorney for the Norfolk Dist. v. Flatley, 419 Mass. 507, 511 (1995) (custodian has the burden of establishing the applicability of an exemption). To meet the specificity requirement a custodian must not only cite an exemption, but must also state why the exemption applies to the withheld

or redacted portion of the responsive record.

If there are any fees associated with a response, a written good faith estimate must be provided. G. L. c. 66, § 10(b)(viii); see also 950 C.M.R. 32.07(2). Once fees are paid, a records custodian must provide the responsive records.

Current Appeal

In his appeal petition, Mr. Bamberg states the following:

On Tuesday September 2, 2025 the city responded that it did not have any records responsive to my request. After asking for clarification, I was sent a revised response letting me know that my request had been denied for public safety reasons.

...

The city has largely ignored my requests for help with this matter, and instead provided me with a Notice of Claim Form that I should use if I believed my home was damaged during construction of the new firehouse. Additionally, I was told that it was the responsibility of the homeowner to investigate any such claims, which is why I made my request.

Mr. Bamberg is advised that the Office of the Supervisor of Records is statutorily empowered with the authority to determine the public record status of government records. See G. L. c. 66, § 10. Further, in compliance with the Public Records Law, the Supervisor of Records may only issue determinations where a violation of G. L. c. 66, § 10 has been alleged. See G. L. c. 66, § 10A(a). Please note that any claims for damages against the City fall outside the jurisdiction of this office. Consequently I am unable to address such issues in this determination. Mr. Bamberg is advised that he may wish to seek advice from private legal counsel concerning his claims for damage to his home.

The City's September 2nd Response

In its September 2, 2025 response, the City provides numerous responsive records and states that it is withholding others pursuant to Exemption (n) of the Public Records Law. See G. L. c. 4, § 7(26)(n).

Exemption (n)

Exemption (n) applies to:

records, including, but not limited to, blueprints, plans, policies, procedures and schematic drawings, which relate to internal layout and structural elements, security measures, emergency preparedness, threat or vulnerability assessments, or any other records relating to the security or safety of persons or buildings, structures, facilities, utilities, transportation, cyber security or other infrastructure

located within the commonwealth, the disclosure of which, in the reasonable judgment of the record custodian, subject to review by the supervisor of public records under subsection (c) of section 10 of chapter 66, is likely to jeopardize public safety or cyber security.

G. L. c. 4, § 7(26)(n).

Exemption (n) allows for the withholding of certain records which if released would jeopardize public safety. The first prong of Exemption (n) examines “whether, and to what degree, the record sought resembles the records listed as examples in the statute;” specifically, the “inquiry is whether, and to what degree, the record is one a terrorist ‘would find useful to maximize damage.’” People for the Ethical Treatment of Animals (PETA) v. Dep’t of Agric. Res., 477 Mass. 280, 289-90 (2017).

The second prong of Exemption (n) examines “the factual and contextual support for the proposition that disclosure of the record is ‘likely to jeopardize public safety.’” Id. at 289-90. The PETA decision further provides that “[b]ecause the records custodian must exercise ‘reasonable judgment’ in making that determination, the primary focus on review is whether the custodian has provided sufficient factual heft for the supervisor of public records or the reviewing court to conclude that a reasonable person would agree with the custodian’s determination given the context of the particular case.” Id.

PETA also provides that “[t]hese two prongs of exemption (n) must be analyzed together, because there is an inverse correlation between them. That is, the more the record sought resembles the records enumerated in exemption (n), the lower the custodian’s burden in demonstrating ‘reasonable judgment’ and vice versa.” PETA, at 290.

In its September 2nd response, under Exemption (n), the City states the following:

[T]he City Engineer sent a follow-up reply (see email chain below) indicating that there are records, but are being withheld. Citing exemption (n) of the Massachusetts Public Records Law, it is the City’s position that the disclosure of infrastructure plans of the City of Revere would likely jeopardize public safety.

In correspondence included with its response, the City also states that “[a]s a matter of public safety, we cannot provide the related utility plans.”

Based on the information provided in the City’s response, it is unclear how the requested records resemble the records listed as examples in the statute. See PETA, 477 Mass. at 289. Particularly, it is not clear how the records resemble “blueprints, plans, policies, procedures and schematic drawings” that relate to security measures. It is also uncertain how the records are the type that “a terrorist would find useful to maximize damage” as required under Exemption (n). It is further unclear how the withheld records are the type that “a terrorist would find useful to maximize damage” as required under Exemption (n). Where the requested records bear a minimal resemblance to the categories listed in Exemption (n), the burden on the custodian to

prove its “reasonable judgment” that disclosure is likely to jeopardize public safety is greatest. See id. at 290 (noting “inverse correlation” between the two prongs of Exemption (n) inquiry). Further, the City did not provide factual heft to support the withholding of the requested records pursuant to Exemption (n). Specifically, the City has not sufficiently explained how disclosure of the records is likely to jeopardize public safety or cyber security. See PETA, at 289-90. The City must clarify these matters.

Additionally, it is unclear from the City’s response which specific records the City intends to withhold. The City must identify the records, categories of records, or portions of records it intends to withhold under Exemption (n). See G. L. c. 66, § 10(b)(iv) (a written response must “identify any records, categories of records or portions of records that the agency or municipality intends to withhold, and provide the specific reasons for such withholding, including the specific exemption or exemptions upon which the withholding is based”). It is further uncertain why the records must be withheld in their entirety. The City must explain whether the records can be redacted so that segregable portions can be provided. See Reinstein v. Police Comm’r of Boston, 378 Mass. 281, 290 (1979) (the statutory exemptions are narrowly construed and are not blanket in nature). Any non-exempt, segregable portion of a public record is subject to mandatory disclosure. G. L. c. 66, § 10(a).

Conclusion

Accordingly, the City is ordered to provide Mr. Bamberg with a response to the request, provided in a manner consistent with this order, the Public Records Law and its Regulations within ten (10) business days. A copy of any such response must be provided to this office. It is preferable to send an electronic copy of the response to this office at pre@sec.state.ma.us. Mr. Bamberg may further appeal the substantive nature of the City’s response within ninety (90) days. See 950 C.M.R. 32.08(1).

Sincerely,



Manza Arthur
Supervisor of Records

cc: Robert Bamberg