

November 5th, 2018

Supervisor of Records
Office of the Secretary of the Commonwealth of Massachusetts

This letter details my reason for appealing the Massachusetts Port Authority's denial of access to public records, provided to me in a letter sent on October 12, 2018 (attached). The letter was in response to a Massachusetts Public Records Law request I submitted on September 28, 2018 (also attached).

In denying my request for a copy of the Disaster and Infrastructure Resiliency Plan (henceforth 'DRIP') for Boston Logan Airport, the Mass. Port Authority cited two exemptions to the disclosure of documents under the Massachusetts Public Records Law. The first, pursuant to Mass. Gen. Laws Ch. 4§7(26)(a) states that records that are "specifically or by necessary implication" exempt "from disclosure by statute" may be withheld. The Authority then cited 49 CFR §§ 15 and 1520 (Protection of Sensitive Security Information (SSI) and SSI disclosed by the TSA or the Coast Guard), claiming that these statutes state that "no part of a record containing SSI may be disclosed to a person without an operational 'need to know.'" However, 49 CFR §§ 1520.15(b) and 49 CFR §§ 15.15(b) state that documents containing SSI and non-SSI may be released with the SSI redacted. On these grounds, I want to appeal the Mass. Port Authority's decision to deny release of the entire record in question when it could be released with SSI redacted.

The Port Authority also cited Mass. Gen. Laws Ch 4§7(26)(n), which exempts records relating to the structural elements, security measures, emergency preparedness, threat or vulnerability assessments, or other records relating to the security or safety of transportation infrastructure. I contend that the record in question, the DRIP prepared by the consultant group Kleinfelder, contains sections that do not address these topics and, therefore, should be released subject to redaction under exemption (n). For example, Kleinfelder's own promotional materials around the report reference the information in the document includes "the latest in climate change research" (<https://www.kleinfelder.com/index.cfm/resource-library/project-briefs/massport-disaster-and-infrastructure-resiliency-plan-pdf/>). The application of exemption (n) is subject to review by the Supervisor of Records, and I urge a reversal of the Port Authority's decision to withhold the entire document in question.

Sincerely,

Lucas Smolcic Larson

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