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COMMONWEALTH OF MASSACHUSETTS

BRISTOL, ss.

SUPERIOR COURT  
CIVIL ACTION  
NO. 2573CV00489

BRISTOL SUPERIOR COURT  
FILED

MAY 12 2026

NEW BEDFORD LIGHT, INC.

JENNIFER A. SULLIVAN, ESQ.  
CLERK/MAGISTRATE

vs.

CITY OF NEW BEDFORD

**MEMORANDUM OF DECISION AND ORDER ON PLAINTIFF'S MOTION  
FOR AMENDMENT OF JUDGMENT AND AWARD ATTORNEY'S FEES AND COSTS**

The plaintiff, New Bedford Light, Inc. ("the Light"), brought this action after seeking records from the defendant, City of New Bedford ("the City"), in connection with a New Bedford Research and Robotics grant application for federal funds. Of the seven documents requested to be turned over, two of them are protected under the attorney-client privilege, and one of them had been turned over once a privilege had expired prior to the resolution of the dispute; the remaining documents were ordered to be turned over by the court. See Paper 16. Now, the Light moves to amend the judgment to award attorney's fees and costs of litigation under the Massachusetts Public Records Law, G. L. c. 66, § 10A(d)(2). After a hearing and for the following reasons, the Light's motion for attorney's fees is **DENIED**.

**DISCUSSION**

Public Records Law provides the court with discretion to "award reasonable attorney fees and costs in any case in which the requester obtains relief through a judicial order, consent decree, or the provision of requested documents after the filing of a complaint." G. L. c. 66, § 10A(d)(2). The statute further provides that "[t]here shall be a presumption in favor of an award of fees and costs unless the municipality establishes that ... [it] reasonably relied upon a

published opinion of an appellate court of the commonwealth based on substantially similar facts.” *Id.*

Here, the City reasonably relied on a published opinion to withhold the requested documents subject to the attorney-client privilege because the documents either contained legal advice in the form of the risk assessments or discussed the risk assessments in such a way that its reliance was reasonable. See *Suffolk Construction Company, Inc. v. Division of Capital Assessment Management*, 449 Mass. 444, 450 (2007) (“[C]onfidential communications between public officers and employees and governmental entities and their legal counsel undertaken for the purpose of obtaining legal advice or assistance are protected under the normal rules of the attorney-client privilege”); *Kay v. Town of Concord*, 105 Mass. App. Ct. 366, 373 (2026) (“Where a communication does not include an attorney, the ultimate standard for determining whether it was made for the purpose of obtaining legal advice is whether the communication revealed legal advice from, or the intent to request legal advice from, an attorney in some fashion”). Moreover, the City relied on *Suffolk Construction* for the proposition that reports and documents prepared surrounding a public project could be subject to the attorney-client privilege, which is substantially similar to their risk assessment documents prepared. See *Suffolk Construction Company, Inc.*, 449 Mass. at 445-446. Although some of the documents were ultimately not protected by the privilege, these risk assessment documents were created in advance of litigation, and thus the City’s reliance was reasonable under the Public Records Law. See G. L. c. 66, § 10A(d)(2); *Kay*, 105 Mass. App. Ct. at 373-374. Thus, the City has demonstrated that an exception to the Public Records Law applies, thereby rebutting the presumption of attorney’s fees.<sup>1</sup> The Light’s request is **DENIED**. See *Berman v. Linnane*, 434

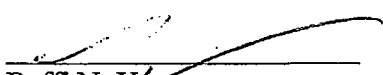
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<sup>1</sup> For this reason, the court declines to determine whether the fees were reasonable under the Lodestar method.

Mass. 301, 302-303 (2001) (award of attorney's fees in any particular case "is committed to the sound discretion of the judge.").

**ORDER**

For the foregoing reasons, it is hereby **ORDERED** that the plaintiff's motion for attorney's fees is **DENIED**.

  
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Raffi N. Yessayan  
Justice of the Superior Court

Dated: May 12, 2026