

County of Monmouth

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HALL OF RECORDS
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January 30, 2015

SENT VIA ELECTRONIC MAIL

Carolyn Schwebel
79 Hamilton Avenue
Leonardo, NJ 07737
Email: cs@equalizers.org

Re: **OPRA REQUEST- RECEIVED JANUARY 22, 2015**

Dear Ms. Schwebel:

The County of Monmouth received your Open Public Records Act (OPRA) request on January 22, 2015. As such, the seven (7) business day deadline to respond to your request is February 2, 2015. This response to your request is being provided to you on the 6th business day after the custodian's receipt of said request.

Your request seeks "The resolution, emails, text messages, faxes, regular mail, memorandums and other communications, including telephone call summaries from and to the Monmouth County Freeholders and other officials, including attorney Lauren D. Bercik, Esq., regarding the ADA settlement with Carolyn Schwebel and Carmena Stoney approved at the May 28, 2009 Freeholder meeting, from April 1, 2009 to August 1, 2009."

Please be advised that a thorough search was conducted and the County has no documents responsive to your request for a "resolution."

Please be further advised that your request for "emails, text messages, faxes, regular mail, memorandums and other communications, including telephone call summaries from and to the Monmouth County Freeholders and other officials, including attorney Lauren D. Bercik, Esq., regarding the ADA settlement with Carolyn Schwebel and Carmena Stoney approved at the May 28, 2009 Freeholder meeting, from April 1, 2009 to August 1, 2009" is denied because it is overly broad, unclear and not a request for specific identifiable government records.

I direct your attention to the GRC opinion re: Complaint No. 2008-51 which provides in relevant part:

“[w]hile OPRA provides an alternative means of access to government documents not otherwise exempted from its reach, *it is not intended as a research tool litigants may use to force government officials to identify and siphon useful information. Rather, OPRA simply operates to make identifiable government records ‘readily accessible for inspection, copying or examination.’* MAG Entertainment, LLC v. Division of Alcohol Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005). The Court further held that “[u]nder OPRA, agencies are required to disclose only ‘identifiable’ government records not otherwise exempt. Wholesale requests for general information to be analyzed, collated and compiled by the responding government entity are not encompassed therein. In short, OPRA does not countenance open-ended searches of an agency’s files. Emphasis supplied. Page 5.

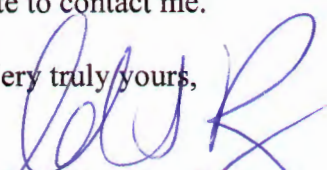
Furthermore, “a requestor must specifically describe the document sought because OPRA operates to make identifiable government records ‘accessible.’ As such, a proper request under OPRA must identify with reasonable clarity those documents that are desired, and a party cannot satisfy this requirement by simply requesting all of an agency’s documents.” Page 6. Requests for “any and all documents” which do not provide identifiers other than broad generic descriptions do not satisfy this requirement. Custodians are also not required to conduct research or create new records in response to an OPRA request and are permitted to deny access for such requests.

In addition, your request is denied in accordance with N.J.S.A. 47:1a-1.1 with respect to any communications in which Lauren D. Bercik, Esq. is a part, as the records requested are protected by attorney – client privilege and are considered inter-agency or intra-agency advisory, consultative or deliberative and therefore are not subject under OPRA.

If your request for access to a government record has been denied or unfilled within the seven (7) business days required by law, you have a right to challenge the decision by the County of Monmouth to deny access. At your option, you may either institute a proceeding in the Superior Court of New Jersey or file a complaint with the Government Records Council (“GRC”) by completing the Denial of Access Complaint Form. You may contact the GRC by toll-free telephone at 866-850-0511, by mail at P.O. Box 819, Trenton, NJ, 08625, by e-mail at grc@dca.state.nj.us, or at their web site at www.state.nj.us/grc. The Council can also answer other questions about the law. All questions regarding complaints filed in Superior Court should be directed to the Court Clerk in your County.

If you should have any questions, please do not hesitate to contact me.

Very truly yours,


ANDREA I. BAZER,
Monmouth County Counsel

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Enclosures

Cc: Teri O'Connor, County Administrator
Marion Masnick, Clerk of the Board