



August 29, 2023

Juan Doe

Via email: opra+request-50360-03ccfd16@requests.opramachine.com

Re: OPRA Request: C205610

Dear Mr. Doe:

The Agency received your Open Public Records Act (OPRA) request on August 18, 2023. The seven business day deadline to respond to your request is August 29, 2023. Your request was received as follows:

"This is a request for public records made under OPRA and the common law right of access. I am not required to fill out an official form. Please acknowledge receipt of this message.

Records requested:

Please electronically provide the following data on affordable housing units and their lotteries.

- Building address*
- Unit number*
- Unit size (i.e. number of bedrooms)*
- Unit rent*
- Income requirements*
- Date posted online to solicit applications*
- Date lottery ran [if filled via lottery]*
- Date unit filled*
- Number of applications [if available]*

This is for research purposes. Please provide the above information to the extent possible."

Please note the following with respect to your request:

A. This request refers ambiguously to several types of data and information without specifying particular records or documents, without specifying particular Agency projects, nor the dates of Agency action. If a request does not name specifically identifiable records or is overly broad, a custodian may deny the request. Such requests seek information, require research, ask questions and/or do not identify specific government records. Agencies are only obligated to disclose identifiable government records. See, MAG Entertainment, LLC v. Division of Alcoholic Beverage Control, 375 N.J. Super. 534 (App. Div. 2005), The statute "only allows requests for records, not requests for information." Bent v. Stafford Police Department, 381 N.J. Super. 30,



37 (App. Div. 2005). A proper request "must identify with reasonable clarity those documents that are desired." *Ibid.* When a request is "complex" because it fails to specifically identify the documents sought, that request is not consistent with OPRA. See, New Jersey Builders Association v. New Jersey Council on Affordable Housing, 390 N.J. Super. 166, 180 (App. Div. 2007). A valid OPRA request must identify with reasonable clarity those documents that are desired. See, Bent v. Stafford Police Department, 381 N.J. Super. 30, 37 (App. Div. 2005). Custodians are not required to conduct research, anticipate what the requestor may be seeking, nor to create new records in response to an OPRA request.

B. Currently, your request fails to identify with reasonable clarity the specific government records sought, as is required by Bent v. Stafford Police Department, 381 N.J. Super. 30, 37 (App. Div. 2005). At this time, we request clarification of your OPRA request. Please respond in writing and identify the specific government records sought so that we may process your request. Attached please find a copy of "A Citizen's Guide to the Open Public Records Act," which may be a helpful resource in clarifying your request. Please note that failure to provide written clarification of this request by September 12, 2023 will result in closure of this request.

The Agency reserves the right to raise any other grounds for denial not raised in this response. Failure of the Agency to assert an exemption or privilege does not act as a waiver of any grounds for denial. Furthermore, a reviewing Court or the Government Records Council ("GRC") may deem a denial of access to be authorized on grounds other than those advanced by a custodian. See Paff v. Twp. of Plainsboro, A-2122-05T2 (App. Div. 2007), affirming, Paff v. Township of Plainsboro, GRC Complaint No. 2005-29 (March 2006). If your request for access to a government record has been denied or unfilled within the seven business day period, you have a right to challenge the decision by the Agency 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.

Sincerely,

A handwritten signature in blue ink, appearing to read "Peter Yasenchak".

Peter Yasenchak
OPRA Custodian
Division of Regulatory Affairs
609-278-8803
pyasenchak@njhmfafa.gov