



BOROUGH OF BOUND BROOK

230 Hamilton St. • Bound Brook, NJ 08805
(732) 356-0833 • Fax: (732) 356-8990
www.boundbrook-nj.org

Jasmine D. McCoy
Borough Clerk/ Assistant Administrator

January 24, 2023

Via Email (opra+request-37358-76267dcb@requests.opramachine.com)

Anonymous

Re: OPRA Request – Initial Response

Dear Anonymous:

The Borough of Bound Brook (the “Borough”) is in receipt of your request, dated January 2, 2023, and received the same day, pursuant to the Open Public Records Act (“OPRA”), N.J.S.A. 47:1A-1 et seq. and common law right of access. Your request stated the following:

- 1. I’m requesting copies of all attorney invoices for Bound Brook from January 1, 2020 to December 13, 2022.*
- 2. I’m requesting copies of all litigation settlement agreements from January 1, 2020 through December 12, 2022.*

Due to the complexity of your request the Borough asked for an extension until January 24, 2023 to respond. This letter is to acknowledge receipt of the request and, after consultation with counsel, the Borough responds as follows. Please be advised that a request pursuant to OPRA must identify the records sought with specificity. Bart v. Passaic County Pub. Hous. Agency, 406 N.J. Super. 445, 451 (App. Div. 2009). OPRA “is not intended as a research tool litigants may use to force government officials to identify and siphon useful information.” MAG Entertainment, LLC v. Division of Alcohol Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005). A custodian may reject a request that is overly broad or vague so as to prevent identification of the records sought. New Jersey Builders Ass’n v. New Jersey Council on Affordable Housing, 390 N.J. Super. 166, 172 (App. Div. 2007), cert. denied 190 N.J. 394 (2007). Moreover, the Appellate Division held in MAG Entertainment, LLC v. Division of ABC, supra, 375 N.J. Super. at 549, that pursuant to 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 agency are not encompassed therein. In short, OPRA does not countenance open-ended searches of an agency’s files.



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In addition, some of the records you seek also appear subject to the privacy interest protected and set forth in N.J.S.A. 47:1A-1, which provides that “a public agency has a responsibility and an obligation to safeguard from public access a citizen’s personal information with which it has been entrusted when disclosure thereof would violate the citizen’s reasonable expectation of privacy.” Serrano v. South Brunswick Twp., 358 N.J. Super. 352, 368-69 (App. Div. 2003).

Furthermore, OPRA exempts from disclosure “personnel records.” See N.J.S.A. 47:1A-10; see also Kovalcik v. Somerset Cnty. Prosecutor’s Office, 206 N.J. 581, 592-93 (2011). In Fenichel v. Ocean City Board of Education (Cape May), GRC Complaint No. 2002-82 (Jan. 2003), the GRC determined that “...information that identifies a specific, individual government employee is exempt.”

Without waiving any of the above-mentioned exceptions and/or reasons for non-disclosure of the records you seek in your request, and subject to those exceptions and/or reasons, the Borough responds as follows.

Specifically, please be advised that certain entries have been redacted for information which contains attorney-client communications and attorney work-product. See N.J.S.A. 47:1A-1.1 OPRA specifically provides that a “government record” shall not include “any record within the attorney-client privilege.” Ibid. Notably, OPRA permits records to be redacted to remove any information protected by the attorney-client privilege. See Rodriguez v. Kean University, GRC Complaint No. 2013-323 (Oct. 2014) (“[A] custodian may redact [attorney or consultant bills or invoices] to remove any information protected by attorney-client privilege.”). In addition, New Jersey law exempts from public disclosure attorney work-product, consisting of “the mental impressions, conclusions, opinions, or legal theories” shared by legal counsel. Id. (citing N.J.S.A. 47:1A-1.1 and N.J.S.A. 47:1A-9); see also Scheeler v. Twp. of Galloway, GRC Complaint No. 2012-151 (July 2013); O’Boyle v. Bor. of Longport, 218 N.J. 168 (2014); Keddie v. Rutgers, State Univ., 148 N.J. 36 (1997). Further, certain entries have been redacted to protect the privacy interest and personnel record of a specific government employee. See N.J.S.A. 47:1A-1; N.J.S.A. 47:1A-10; Kovalcik, 206 N.J. at 592-93.

Enclosed please find the following documents responsive to your request:

- DeCotiis attorney invoices for periods ending 10/31/21 through 3/31/22; and
- Vaughn Index for DeCotiis attorney invoices for periods ending 10/31/21 through 3/31/22.



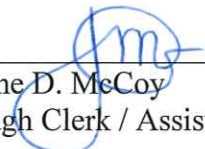
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The Borough will continue to respond to your request on a rolling basis. The Borough requires an additional two weeks, or until about Monday, February 6, 2023 to provide an additional response.

Very truly yours,



Jasmine D. McCoy
Borough Clerk / Assistant Administrator

