

**MAYOR**

James P. Mehaffey

**TOWNSHIP COMMITTEE**

Megan Kerr  
Ashley Morrell  
Adam Reid  
Jim Robinson

**WEST DEPTFORD TOWNSHIP****Municipal Building**

400 Crown Point Road  
West Deptford, New Jersey 08086  
Phone (856) 845-4004

**Township Administrator**

Lee Ann DeHart

**Chief Finance Officer**

Michael Kwasizur

**Registered Municipal Clerk**

Lee Ann DeHart

March 17, 2022

*Via email only ([opra+request-30017-04c0823d@requests.opramachine.com](mailto:opra+request-30017-04c0823d@requests.opramachine.com))*

Kate Delany

**Re: Open Public Records Act/Common Law Records Request**

Dear Ms. Delany:

The West Deptford Township Records Custodian received your request for records pursuant to the Open Public Records Act (OPRA) and the New Jersey common law right of access, dated March 7, 2022, on March 8, 2022. Accordingly, the initial seven (7) business day deadline to respond to your request under OPRA is March 17, 2022. This response to your request is being provided on the seventh business day after receipt of your request.

Your records request was as follows:

**From:** Kate Delany <[opra+request-30017-04c0823d@requests.opramachine.com](mailto:opra+request-30017-04c0823d@requests.opramachine.com)>

**Date:** March 7, 2022 at 7:46:54 PM EST

**To:** Lee Ann DeHart <[LDeHart@westdeptford.com](mailto:LDeHart@westdeptford.com)>

**Subject:** OPRA request - communication between West Deptford and Delaware River Partners

Dear West Deptford Township,

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:

all communications between West Deptford employees and township committee members and representatives of Delaware River Partners. This request includes communications with affiliates, subsidiaries, and representative of the named companies, and including any "Doing Business As" names. I request communications including emails, physical mail, calendar appointments for phone calls or meetings and the minutes and any documents exchanged or referenced during those meeting. This request is for the timeframe of January 1, 2022 to present day.

Thanks,

Kate Delany

**Response to Common Law Request**

The common law right to access public records depends on three requirements: (1) the records must be common law public documents; (2) the person seeking access must establish an interest

in the subject matter of the material; and (3) the citizen's right to access must be balanced against the State's interest in preventing disclosure. *Richard Rivera v. Union County Prosecutor's Office*, slip op., Docket No. A-58-20 (N.J. Supreme Court March 14, 2022).

After consultation with the Township Solicitor, we have concluded that you have failed to identify your interest in the subject matter of the requested material. Accordingly, your common law request is denied.

### **Response to OPRA Request**

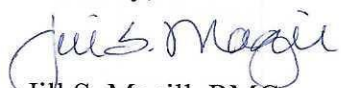
After consultation with the Township Solicitor, your OPRA request is denied as written for the following reason(s):

**Overbroad/Improper Request.** OPRA and the common law require that a requestor identify the records sought with specificity. The request may not be a broad, generic description of documents that requires the custodian to search the agency's files and analyze, compile and collate the requested information. *Bart v. Passaic County Public Hous. Agency*, 406 N.J. Super. 445, 451 (App. Div. 2009); *Bent v. Stafford Police Department*, 381 N.J. Super. 30, 37 (App. Div. 2005). If a request does not name specifically identifiable records or is overly broad, a custodian may deny access. 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. *MAG Entertainment, LLC v. Div. of Alcoholic Beverage Control*, 375 N.J. Super. 534 (App. Div. 2005); *Bent v. Twp. of Stafford Police Dep't.*, 381 N.J. Super. 30 (App. Div. 2005). Custodians are not required to conduct research or create new records in response to an OPRA request. *Simmons v. Mercado*, 247 N.J. 24 (2021); *MAG Entertainment, LLC v. Division of Alcoholic Beverage Control*, 375 N.J. Super. 534, 546 (App. Div. 2005); *Librizzi v. Township of Verona Police Department*, GRC Complaint No. 2009-213 (August 2010).

In order to further process your request, please identify the specific sender(s) and/or recipient(s) of the requested communications. The Township cannot further process your request with the overly expansive definition set forth in your request.

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 Township of West Deptford Clerk's office 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](mailto:grc@dca.state.nj.us), or at their web site at [www.state.nj.us/grc](http://www.state.nj.us/grc). The GRC 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.

Sincerely,



Jill S. Magill, RMC

Deputy Clerk

[jmagill@westdeptford.com](mailto:jmagill@westdeptford.com)

856-845-4004 ext. 174