



TOWNSHIP OF HOWELL
Office of the Municipal Clerk
4567 Route 9, North
2nd Floor
Howell, NJ 07731

December 8, 2021

Pamela Richmond

Via e-mail: opra+request-27559-b5988291@requests.opramachine.com

RE: OPRA #21-1492

Dear Pamela,

The official Records Custodian, Dwayne M. Harris, received your OPRA request on 12/8/2021. As such, the seven (7) business day deadline to respond to your request is 12/17/2021. Accordingly, this response to your request is being provided to you within the statutory time frame.

Your OPRA request sought access to the following: *I am requesting all correspondences for the years 2020 -present for the following: Any Township representative or outside counsel to any representative of OHI (ocean health initiative). - other than Mayor Berger*

Response: Your request for “**all correspondences**” does not identify a specific government record and as such, your request is an invalid OPRA request. Under *M.A.G. Entm't, L.L.C. v. Div. of Alcohol Beverage Control*, 375 N.J. Super. 534 (App. Div. 2005): The Court held that “[w]hile O.P.R.A. provides an alternative means of access to government documents not otherwise exempted from its reach, *it is not intended as a research tool to force government officials to identify and siphon useful information. Rather, O.P.R.A. simply operates to make identifiable government records 'readily accessible for inspection, copying, or examination.'* N.J.S.A. 47:1A-1.” (emphasis added) and a party cannot satisfy this requirement by simply requesting “all” of an agency's records. See *Bent v. Stafford Police Department*, 381 N.J. Super. 30, 37 (App. Div. 2005). The Court further held that “[u]nder O.P.R.A., agencies are required to disclose only 'identifiable' government records not otherwise exempt . . . In short, O.P.R.A. does not countenance open-ended searches of an agency's files.” Id. at 549 (emphasis added)

In regards to requests for emails [as they are correspondences] , in accord with *Elcavage v. West Milford Twp. (Passaic)*, GRC Complaint No. 2009-07 (April 2010), and its progeny, to specifically identify an e-mail, OPRA requests must contain: (1) the content and/or subject of the e-mail, (2) the specific date or range of dates during which the e-mail was transmitted or the e-mails were transmitted, and (3) a valid e-mail request must identify the sender and/or the recipient thereof.” Id. at 5. See also *Armenti v. Robbinsville Bd. of Educ. (Mercer)*, GRC Complaint No. 2009-154 (Interim Order dated May 24, 2011) (applying the *Elcavage* factors to other forms of written correspondence).

Your request encompassing e-mails does identify a time range for the e-mail [2020 –present], however, it does not specify the content and/or subject of the e-mail, nor does it identify the sender and/or the recipient, making it invalid under OPRA. To correctly identify e-mail records being sought, you would be required to specify the subject matter, the date or range of dates and the sender and/or the recipient and a party cannot satisfy this requirement by simply stating “any.”

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 Howell 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, mail at PO Box 819, Trenton, NJ, 08625, or e-mail at grc@dca.state.nj.us, or their website at 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,

Dwayne M. Harris

Dwayne M. Harris, RMC
Municipal Clerk

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