

City of Linden

Union County, New Jersey

Office of the City Clerk
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Jennifer Honan, RMC, CMR
Deputy City Clerk

Joseph C. Bodek, RMC, RPPO
City Clerk

VIA E-MAIL [opra+request-52922-5f61d64c@requests.opramachine.com]

James Peery

Re: Open Public Records Act and Common Law Request

Dear Mr. Peery:

The City of Linden ("City") records custodian received your Open Public Records Act ("OPRA") and common law request ("Request") on September 18, 2023. The seven business day deadline to respond to your Request is September 27, 2023. As such, the City is timely responding to your Request in accordance with New Jersey law.

Your Request seeks the following records:

Crimes committed, complaints, break ins, robberies, hold ups, theft during normal business hours and after hours and the like committed against specifically but not limited to House of Flowers at 650 North Wood avenue Linden NJ, retail establishments, including but not limited to stores, restaurants, bars and shops on and along North Wood Avenue in the City of Linden for the years 2002, 2003, 2004, 2005, any and all information pertaining to the previously stated location or locations and year or years including but not limited to notes, reports, inquiries, investigations, interrogations, summaries, charges, litigation, judgements and the like.

Please note that your Request constitutes an invalid request for information. Please note that OPRA operates to make identifiable government records "readily accessible for inspection, copying, or examination." N.J.S.A. § 47:1A-1; MAG Entertainment, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005). MAG Entertainment, LLC held, "[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 . . . to force government officials to identify and siphon useful information." Id. at 547. "Under 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." Id. at 549; see also Bent v. Stafford Police Dep't, 381 N.J. Super. 30, 37 (App. Div. 2005) (holding that OPRA only allows requests for records as contrasted from information, and to qualify under OPRA a request must reasonably identify a record and not generally data, information or statistics). The Appellate Division repeated these principles in holding:

[A]gencies are only obligated to disclose identifiable government records. The statute “only allows requests for records, not requests for information.” A proper request “must identify with reasonable clarity those documents that are desired.” “Wholesale requests for general information to be analyzed, collated and compiled” by the agency are outside OPRA’s scope.

Burke v. Brandes, 429 N.J. Super. 169, 174 (App. Div. 2012) (citations omitted); see also Lagerkvist v. Office of Governor of State, 443 N.J. Super. 230, 237 (App. Div. 2015) (holding that OPRA does not convert a custodian into a researcher, which would have been the effect of the request).

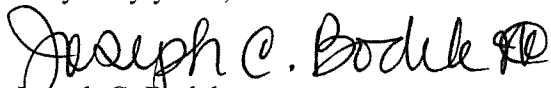
In light of the above, your Request seeking information regarding crimes committed, complaints, break ins, robberies, hold ups, theft during normal business hours at the stated address clearly constitutes a request for information that is outside of the scope of OPRA. You are purportedly asking the City to conduct research to analyze, compile, and collate information for you. Such an analysis clearly exceeds the obligations of a record custodian. Accordingly, the City is not legally obligated to respond to your inquiry.

To the extent that your Request may be construed as seeking a specifically identifiable government record(s), please be advised that your Request is overly broad, as it fails to identify with reasonable clarity any particular records sought. OPRA operates to make identifiable government records “readily accessible for inspection, copying, or examination.” N.J.S.A. 47:1A-1. New Jersey courts have consistently held that OPRA does not countenance open-ended searches of an agency’s files. MAG Entm’t, LLC v. Div. of ABC, 375 N.J. Super. 534, 549 (App. Div. 2005); New Jersey Builders Ass’n v. New Jersey Council on Affordable Housing, 390 N.J. Super. 166 (App. Div.), cert. denied, 190 N.J. 394 (2007). Consequently, 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.” See e.g., Spectraserv, Inc. v. Middlesex Cty. Utilities Auth., 416 N.J. Super. 565, 576 (App. Div. 2010); Bent v. Twp. of Stafford Police Dep’t, 381 N.J. Super. 30, 37 (App. Div. 2005). OPRA requests may not be a broad generic description of documents that require the custodian to search the agency’s files and “analyze, compile, and collate” the requested information. Id.; see also Lagerkvist v. Office of Governor of State, 443 N.J. Super. 230, 237 (App. Div. 2015) (holding that OPRA does not convert a custodian into a researcher, which would have been the effect of the request). Here, your Request is clearly deficient as it purportedly seeks various classes of records pertaining to 650 North Wood Avenue and purports to require the City’s records custodian to conduct research in order to determine which documents may potentially be relevant to your Request. See Parreott v. Asbury Park School District, GRC Complaint Nos. 2016-20 & 2016-39 (Sept. 2017) (holding that the portion of the request seeking all relevant documents” was invalid because it sought a class of various records and would have required the records custodian to conduct research in order to locate responsive records); see also Burke v. Ocean Cty., 2013 WL 6169154 (App. Div. 2013) (holding that an OPRA request is not the equivalent of lawsuit discovery). Accordingly, your Request is invalid as it fails to comport with OPRA’s specificity requirements.

To the extent that you have submitted your Request under the common law right of access, your Request is also denied. In O'Boyle v. Borough of Longport, 218 N.J. 168, 196 (2014), the Supreme Court of New Jersey held that the party requesting documents under the common law right of access must explain why he seeks access to the requested documents. See also Gannett Satellite Information Network, LLC v. Twp. of Neptune, 254 N.J. 242 (2023) (holding that the person seeking access must establish an interest in the subject matter of the material). Here, your Request lacks any explanation with respect to your purported interest in accessing the information at issue. Notwithstanding, even if you had explained your precise interest in accessing the information, your Request would still be deficient for the reasons set forth above.

Your Request is now deemed answered and closed. Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in black ink that reads "Joseph C. Bodek" followed by a stylized circular mark.

Joseph C. Bodek
City Clerk