



600 PARSIPPANY ROAD, SUITE 204
PARSIPPANY, NEW JERSEY 07054
T (973) 947-7111
FAX (973) 887-2700
www.iwwt.law

JUSTIN A. MARCHETTA
Direct: (973) 947-7136
jmarshetta@iwwt.law
Admitted in NJ, NY, TX & DC

March 15, 2021

Via Email (rmoore2929@gmail.com) & Regular Mail

Mr. Rory Moore
462 Chestnut Street
Nutley, New Jersey 07110

**Re: OPRA Request 121-21
Diamond Springs Property**

Dear Mr. Moore,

As you know, I serve as Special Counsel to the Township of Nutley (the “Township”). On March 2, 2021, you sent a request for access to government records pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1, *et seq.* (“OPRA”) to the Township, which was received on March 3, 2021 during regular business hours. Your OPRA request stated “mayor Tucci stated, on the record, the surveys for Dimond Springs and the cicciolina [sic] building were sent to the planning board. I want the copies”.

On March 12, 2021, the Township responded to your OPRA request and provided all responsive government records in its custody or control pertaining to the Ciccolini property. Also included in the Township’s response was a link to the Preliminary Investigation Study for the Diamond Springs property, which is publicly available on the Township’s website. Despite the Township’s full and complete response to your OPRA request, on March 13, 2021 you sent an email to Deputy Clerk, Ceci Tramontana, stating “I file [sic] a complaint for the Dimond springs study”.

Your threat to file a complaint for the Preliminary Investigation Study is entirely frivolous and without any basis in law or fact. Despite the provisions of P. L. 2020, c. 10, which extends OPRA’s the statutory deadlines during declared public health emergencies, the Custodian responded to your OPRA request within the seven-business day deadline specified under N.J.S.A. 47:1A-5(i) for requests submitted during non-public health emergency periods. Moreover, the Custodian provided you with a link to the exact document that you requested, *to wit*, the Preliminary Investigation Study for the Diamond Springs property that Mayor Tucci

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referred to and which is on file with the Planning Board. Because you did not authorize any copying charges in your OPRA request, the Township provided you with a link to the free version of the Preliminary Investigation Study, as it is publicly available on the Township website. Accordingly, the Township complied with its statutory and common law obligations in response to your OPRA request.

Your repeated and baseless threats to file complaints against the Deputy Clerk over documents that you timely received are clear evidence of your ongoing animus towards the Clerk's office and its employees. Despite the Township's compliance with your often ambiguous and repetitive OPRA requests, you continue to unlawfully harass and threaten Township employees with baseless complaints and frivolous litigation. You are hereby advised that the Township reserves its rights to pursue the recovery of its costs, including attorney's fees, incurred in its defense against such unlawful actions.

Please be guided accordingly.

Yours truly,



JUSTIN A. MARCHETTA

cc: (via Electronic Mail)
Alan Genitempo, Esq.