

BOROUGH OF GLASSBORO

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February 29, 2024

Via email only (opra+request-57810-d6cefa95@requests.opramachine.com)
Broskiman332

Re: Open Public Records Act/Common Law Records Request

Dear Broskiman332:

The Borough of Glassboro Records Custodian received your request for records pursuant to the Open Public Records Act (OPRA) and the common law right of access on January 30, 2024. Accordingly, the initial seven (7) business day deadline to respond to your request under OPRA was February 8, 2024. We previously requested an extension of time, to February 29, 2024, to further process your request.

Your records request was as follows:

- 1.) All emails between Raymond DiClaudio and Daniel DeSilvio (dandesilvio@gmail.com) between May 20, 2023 to present.
- 2.) Weekly report generated by the Glassboro Police Department for the Glassboro Code Enforcement Office listing violations and other issues of the week for the prior week, which should have been delivered today to the Code Enforcement Office. (I have been informed by Code Enforcement Staff, I cannot even look at the document but may OPRA it-would not be given a name of the document only an explanation).
- 3.) For Raymond DiClaudio for the years of 2020 to present please provide: an individual's name, title, position, salary(and longevity pay, overtime pay if applicable), payroll record, length of service, date of separation and the reason for such separation (if applicable), and the amount and type of any pension received, pursuant to N.J.S.A. 47:1A-10.
- 4.) All emails between Kaitlin Harrell and Daniel DeSilvio (dandesilvio@gmail.com) between May 20, 2023 to present.

Response to Common Law Request

After consultation with the Borough records attorney, to the extent records are not being provided in response to your OPRA request, your common law request is denied for the following reason(s):

No common law interest. 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*, 250 N.J. 124, 143-44 (2022); *South Jersey Publishing Co. v. New Jersey Expressway Auth.*, 124 N.J. 478, 487 (1991); *Loigman v. Kimmelman*, 102 N.J. 98 (1986); *Nero v. Hyland*, 76 N.J. 213, 222 (1978). Your common law request is denied due to your failure to identify your interest in the requested records.

Response to OPRA Request

After consultation with the Borough records attorney, our response to each item of your OPRA request is as follows:

Items 1 and 4

Further processing of these items of your request will require an extraordinary expenditure of time and effort since it would involve review and redaction of privacy, security, medical and/or other material exempt from disclosure.

The Open Public Records Act allows public agencies to impose special service charges whenever the nature, format, manner of collation, or volume of a government record embodied in the form of printed matter to be inspected, examined, or copied is such that the record cannot be reproduced by ordinary document copying equipment in ordinary business size or when fulfilling a request requires an extraordinary expenditure of time and effort. *See* N.J.S.A. 47:1A-5.c. Due to the nature of your request and the volume and type of responsive records identified, it will be necessary to impose a special service charge to fulfill your request.

Special service charges must be based upon the actual direct cost of providing the copy or copies. OPRA mandates that the requestor shall have the opportunity to review and object to the charge prior to it being incurred. *See* N.J.S.A. 47:1A-5.c. As such, a detailed estimate is provided below:

lowest level person capable of fulfilling the request	Kerriane Kennedy
direct hourly rate (minus fringe benefits)	\$25.12
number of hours anticipated to complete request	0.5
estimated special service charge	\$12.56
lowest level person capable of fulfilling the request	Kathy McLeer
direct hourly rate (minus fringe benefits)	\$32.65
number of hours anticipated to complete request	4.75
<u>estimated special service charge</u>	<u>\$155.09</u>
Total Estimated Special Service Charge	\$167.65

PLEASE NOTE THAT THIS ESTIMATED CHARGE DOES NOT INCLUDE ANY APPLICABLE COPYING CHARGES. IN ORDER TO PROCEED WITH FULFILLING YOUR REQUEST, WE REQUIRE A DEPOSIT IN THE AMOUNT OF \$167.65, REPRESENTING THE TOTAL ESTIMATED BWC VIDEO SPECIAL SERVICE CHARGE.

PLEASE FORWARD A CHECK OR MONEY ORDER IN THE TOTAL AMOUNT OF \$167.65 PAYABLE TO "BOROUGH OF GLASSBORO."

Kindly respond in writing or via email with your acceptance or rejection of this estimated charge. We will not begin to further process these parts of your request until we receive your written acceptance and deposit. Please note that we will consider these items of your request closed if the requested deposit is not received within seven (7) business days of the date of this correspondence.

Item 2

Your request is denied for the following reason(s):

Advisory/Consultative/Deliberative. The requested record(s) constitute(s) inter-agency or intra-agency advisory, consultative or deliberative materials, which are exempt from disclosure under both OPRA and the common law. N.J.S.A. 47:1A-1.1; *Education Law Center v. New Jersey Dept. of Educ.*, 198 N.J. 274 (2009); *Libertarians for Transparent Government v. Government Records Council*, 453 N.J. Super. 83 (App. Div.), *certif. denied* 233 N.J. 484 (2018); *Larkins v. Solter*, 450 N.J. Super. 519 (App. Div. 2017); *DeEugenio v. Borough of Glassboro*, GRC Complaint No. 2016-254 (June 2019).

Criminal Investigatory Record(s). The requested record(s) or parts thereof are not required by law to be made, maintained or kept on file, pertain to a criminal investigation, and are therefore exempt from disclosure pursuant to the criminal investigatory records exception of OPRA. N.J.S.A. 47:1A-1.1; *Paff v. Ocean County Prosecutor's Office*, 235 N.J. 1 (2018); *North Jersey Media Group, Inc. v. Township of Lyndhurst*, 229 N.J. 541 (2017); *Schulz v. N.J. State Police*, Complaint No. 2014-390 (GRC 2015).

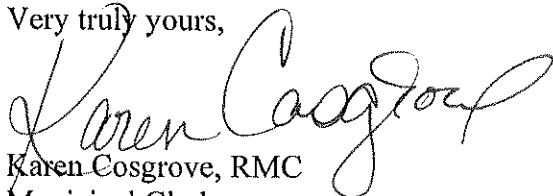
Item 3

A search of our available records has identified the following which provide the requested information:

Employee Custom Listing - DiClaudio
Employee Salary History Data Listing by Employee Id - DiClaudio

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 Borough of Glassboro 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, or at their web site 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.

Very truly yours,


Karen Cosgrove, RMC
Municipal Clerk
Borough of Glassboro