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A LIMITED LIABILITY COMPANY

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August 31, 2021

BY EMAIL ONLY

Edith Merkel, RMC
Township Clerk
Township of Clark
430 Westfield Avenue
Room 28
Clark, New Jersey, 07066

Re: August 20, 2021 OPRA Request from "JF"

Dear Ms. Merkel:

The Township and you each received on August 20, 2021 a request under the Open Public Records Act from JF which was forwarded to this office for a reply. As Township Attorney, I provide the Township's response to JF's inquiry as follows:

The Township of Clark received your Open Public Records Act (OPRA) request on August 20, 2021. The official Records Custodian, Edith Merkel, received your OPRA

request on August 20, 2021. As such, the seven (7) business day deadline to respond to your request is August 31, 2021. This response to your request is being provided to you on the 7th business day after the custodian's receipt of said request.

1. The employment status of Antonio Manata with the Clark Township Police Department - Already supplied.

2. Records of any written or verbal settlement, agreement or accord between Antonio Manata and the Township of Clark or any of its departments/divisions detailing his status with the Township of Clark and its Police Department in reference to his ability to seek employment elsewhere - Objection. Such documents, if any, are exempt from disclosure based on, *inter alia*, the following: (1) disclosure would violate a citizen's reasonable expectation of privacy pursuant to N.J.S.A. 47:1A-1; (2) they constitute personnel records under N.J.S.A. 47:1A-10; (3) the request seeks information in connection with a grievance filed by or against an individual pursuant to N.J.S.A. 47:1A-1.1 and 10; and (4) this requests records which pertain to an investigation in progress by a public agency pursuant to N.J.S.A. 47:1A-3. Subject to the foregoing, the Township neither admits nor denies the existence of such documents.

3. A list of internal affairs complaints (self generated and complaints made by the public), if any, against Antonio Manata while employed for the Clark Police Department, as well as the dispositions of all complaints - Objection. Such documents, if any, are exempt from OPRA because, *inter alia*, (1) they are personnel records under N.J.S.A. 47:1A-10 and (2) the Attorney General's Internal Affairs Policy & Procedure ("IAPP") exempts internal affairs records from disclosure, providing that "the nature and source of internal allegations, the progress of internal affairs investigations, and the resulting materials are confidential information." See, Wares v. Township of West Milford (Passaic), GRC Complaint NO. 2014-274 (May 2015); Blaustein v. Lakewood Police Dep't (Ocean), GRC Complaint No. 2011-102 (June 2012); Rivera v. Borough of Keansburg Police Dep't (Monmouth), GRC Complaint No. 2007-222 (June 2010). The Government Records Council and New Jersey Courts have held that the IAPP and other Attorney General Guidelines carry the force of the law. See, Blaustein v. Lakewood Police Dep't (Ocean), GRC Complaint No. 2011-102 (June 2012); O'Shea v. Twp. Of West Milford, 410 N.J. Super. 371, 484-85 (App. Div. 2009). Subject to the foregoing, the Township neither admits nor denies the existence of such documents.

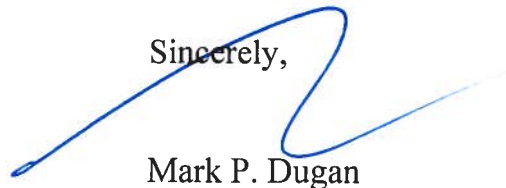
If your request for access to a government record has been denied or unfilled within the seven (7) business days required by law, you have a right to challenge the decision by the Township of Clark to deny access. At your option, you may either institute a proceeding in the Superior Court of New Jersey or file a complaint with the Government Records Council (GRC) by completing the Denial of Access Complaint Form. You may contact

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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 <https://nam12.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.state.nj.us%2Fgrc&data=04%7C01%7Cmpd%40tbwdlaw.com%7C1f03b64cfe504a8abdeb08d969857a9f%7C5f51087d3109471d86b1eddc5fcf066a%7C0%7C0%7C637656844432475041%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ikl1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=4RVjHViJikvJOH%2F%2FIcpc4cP1V6Es1RgahK18CAOPq6g%3D&reserved=0>. 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.

You may furnish this letter to JF as the Township's reply to JF's request. Should you need to discuss any of the foregoing, kindly advise.

Sincerely,



Mark P. Dugan