



CITY OF BRIGANTINE

Lynn Sweeney, RMC, CMR
City Clerk/Registrar

March 3, 2020

VIA EMAIL ONLY

opra+request-9815-6ec4ca75@requests.opramachine.com

Re: February 24, 2020 OPRA request

Dear Anonymous,

The City of Brigantine received your February 24, 2020 request pursuant to the New Jersey Open Public Records Act. This request timely responds to your request seeking the below public records:

- (1) Copies of all written correspondence between Gruccio, Pepper, De Santo and Ruth, P.A. and City Manager Ed Stinson during the months of November 2015 and December 2015, including but not limited to the written correspondence bill to the City on December 21, 2015 and December 29, 2015 in the amount of \$30 each.**

Response: The request is denied. N.J.S.A. 47:1A-1.1 exempts from access any record protected by the attorney-client privilege. Here, a correspondence between Counsel for the City and the City Manager is protected by the attorney-client privilege, and, therefore exempt from disclosure under OPRA.

- (2) Copy of the “report” referenced in 2015 billing notices from Gruccio, Pepper, DE Santo and Ruth, P.A. to the City billed for on December 1, 2015; December 3, 2015; December 4, 2015; December 7, 2015; December 8, 2015; with total billing costs combined to be \$2,700 associated with “report.”**

Response: The request is denied. The request for the “report” in certain billing entries is denied as it is part of an Internal Affairs investigation. Under N.J.S.A. 47:1A-9, the Open Public Records Act does not require disclosure of records that are exempt from disclosure by another statute, regulation, or executive order. The Attorney General Guidelines for Internal Affairs clearly indicate that the documents created due to an investigation are confidential. The AG Guidelines permit disclosure of an Internal Affairs investigation under four circumstances: 1) released to the officer and hearing officer for an administrative hearing, 2) released to the officer and his attorney if the officer is the subject of a lawsuit arising out of the incident for the internal affairs investigation, 3) at the request or direction of the Atlantic County Prosecutor or Attorney General, or 4) by Court Order. Here, none of the four circumstances have been met. Therefore, your request for the “report” in certain billing entries within the Gruccio Pepper legal bills is denied in accordance with N.J.S.A. 47:1A-9.

- (3) Copy of any grievances or complaints filed with the City by collective bargaining unions or individual employees during the year 2015.**

Response: The request is denied. N.J.S.A. 47:1A-10 provides that "...the personnel and pension records of any individual in the possession of a public agency, including but not limited to records relating to any grievance filed by or against an individual, shall not be considered a government record and shall not be made available for public access"

This completes this OPRA request.

Respectfully,

A handwritten signature in cursive script, appearing to read "Lynn Sweeney".

Lynn Sweeney, RMC
City Clerk

Cc: Jim Bennet, City Manager
Alfred R. Scerni, Jr, Esq., City Manager