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Reply to:

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May 31, 2023

Via Email – opra+request-42749-296efd36@requests.opramachine.com

Sally Smith

Re: Response to OPRA Requests Received May 16, 2023

Dear Ms. Smith:

I am writing on behalf of my client, Monmouth County (the “County”), in response to the two records requests that you submitted to the County under the Open Public Records Act (the “OPRA”) and the common law right of access on May 16, 2023. The requests were received by the County on May 16, 2023 and were forwarded to our office, as special County Counsel for OPRA matters, in order to assist the County with the provision of responses. A request to extend the period to produce responsive documents for these requests was made on May 25, 2023 extending the due date for the response to June 15, 2023 to permit the County time to collect and review records. This response is being provided within the required period of time under OPRA.

For ease of reference, your requests are included below, with our responses following in **bold**. Please note that as a starting matter, flight information is handled in a sensitive manner given the serious nature of flying in general. The Federal Aviation Administration (FAA) issues and enforces regulations covering manufacturing, operating, and maintaining aircraft. Given the focus of your request on flight information, County staff contacted the FAA to ensure propriety was followed in the handling of any requested information. The response from the FAA is included in our responses below.

1. Records requested: Monmouth County Mosquito Control Division Flight Log for aircraft N515BG from January 2022 – Present.

Your request is denied as a request for records exempt from production under federal regulations. See N.J.S.A. 47:1A-9. Regarding the logbook, logbooks are required to be kept under federal regulations by the Federal Aviation Administration (FAA). See 14 CFR 61.51 et seq. These logbooks can only be requested for review under three (3) circumstances:

1. **When requested by the FAA;**

2. When requested by an authorized representative from the National Transportation Safety Board; or
3. When requested by any Federal, State, or local law enforcement officer.

See 14 C.F.R. § 61.51(i)(1)(i-iii).

Since our office is not listed as an entity empowered to request the logbook, we are unable to obtain the information. In response to your request, the County contacted the Federal Aviation Administration (FAA). Regarding the request for flight log information, the County was informed by the FAA that this information was for materials governed by FAA regulations and that the requester should direct its request to the FAA. If you wish to obtain these records, you must contact the FAA for permission to access them.

2. Records requested: Requests made by N515BG to the FAA for exemption from minimum altitude flights from January 2022 – Present.

A petition for exemption is a request to the Federal Aviation Administration (FAA) by an individual or entity for relief from the requirements of a regulation in Title 14 of the Code of Federal Regulations (14 CFR). The FAA may grant an exemption if it is in public interest and provides an equivalent level of safety. See, 49 U.S.C. § 44701(f) and 14 CFR § 11.81(e).

In response to your request, the County contacted the FAA. The County was informed by the FAA that this request was for materials governed by FAA regulations and that the requester should direct its request to the FAA. If you wish to obtain these records, you must contact the FAA for permission to access them.

For both of your requests, the contact information for the FAA office from which we received this guidance and to which inquiries regarding the requested information should be made is as follows:

**Federal Aviation Administration
Flight Standards District Office
Park 80 West, Plaza One
250 Pehle Avenue, Suite 003
Saddle Brook, NJ 07663**

If you believe that your request for access to a government record has been improperly denied, you have a right to challenge the decision 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 a 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 website 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,
GluckWalrath LLP

By: /s/ John M. Glynn
John M. Glynn

JMG:dmr

cc: Michael Fitzgerald, Monmouth County Counsel (via e-mail only)
John Tobia, Director of Monmouth County Department of Public Works and Engineering
(via e-mail only)
Tamara Brown, Clerk of the Board of County Commissioners (via e-mail only)
Ginger Gero, Office of Monmouth County Counsel (via e-mail only)