



DIRECT DIAL NUMBER:  
732-530-8822

John M. Glynn, Jr.  
jglynn@dilworthlaw.com

June 8, 2023

**Via Email – [opra+request-42749-296efd36@requests.opramachine.com](mailto:opra+request-42749-296efd36@requests.opramachine.com)**

Sally Smith

**Re: OPRA Request Received June 1, 2023**

Dear Ms. Smith:

I am writing on behalf of my client, Monmouth County (the “County”), in response to the records request that you submitted to the County under the Open Public Records Act (the “OPRA”) and the common law right of access on June 1, 2023. The request was received by the County on June 1, 2023 and was forwarded to our office, as special County Counsel for OPRA matters, in order to assist the County with the provision of responses. This response is being provided within the required period of time under OPRA.

By way of background, you previously submitted OPRA requests to the County on May 16, 2023 requesting (1) the Monmouth County Mosquito Control Division Flight Log for aircraft N515BG from January 2022 to the present; and (2) requests made by N515BG to the Federal Aviation Administration (FAA) for exemption from minimum altitude flights from January 2022 to the present. On May 31, 2023, we sent you a response in which we denied both requests, as we had reached out to the FAA and had been advised the requested information could only be obtained by direct request to the FAA. Our denial informed you of the FAA’s insistence that the County should not release any of the requested information and that requests for such information should be made to the FAA.

In your request from June 1, 2023 you ask for the following:

Dates and locations for control operations by Monmouth County Mosquito Control Division via helicopter 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. After discussing the request with the Department of Public Works and Engineering for the County, it was understood that the only record of this information regarding the helicopter used by the Division is the flight logbook for the**

helicopter. As explained in our response to your OPRA request from May 16<sup>th</sup>, 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 earlier 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. 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**

In addition, the County Director of Public Works and Engineering has asked that we provide his contact information should you wish to reach out. It may be that by discussing the matter in a conversation, the County will better understand the underlying purpose of your requests and may be in a better position to assist you. The Director's contact information is as follows:

**John Tobia, Director of Monmouth County Department of Public Works and Engineering: (732) 683-8758**

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](mailto:grc@dca.state.nj.us), or at their website at [www.state.nj.us/grc](http://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,  
**Dilworth Paxson 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)