

OFFICE OF THE SHERIFF

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August 08, 2023
Jacob Toby
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Good day,

The Ocean County Sheriff's Office received your Open Public Records Act (OPRA) request on or about August 7, 2023. The official Records Custodian, Lt. Adrian Bullock, received your OPRA request on August 8, 2023. As such, the seven (7) business day deadline to respond to your request is August 16, 2023. This response to your request is being provided to you on the **[1st]** business day after the custodian's receipt of said request.

The following records were requested:

A list of all property owners name and address that have been foreclosed and have any surplus funds available please provide the amounts that are available as well.

The New Jersey Open Public Records Act ("OPRA") provides that "government records shall be accessible for inspection, copying, or examination by the citizens of this State, with certain exceptions, for the protection of the public interest" N.J.S.A. 47:1A-1. The statute also provides that "any limitations on the right of access [. . .] shall be construed in favor of the public's right of access" Id.

Under OPRA, "all government records" are subject to public access. OPRA defines "government record" as:

[A]ny paper, written or printed book, document, drawing, map, plan, photograph, microfilm, data processed or image processed document, information stored or maintained electronically or by sound-recording . . . that has been made, maintained or kept on file in the course of his or its official business by any officer, commission, agency, or authority of the State . . . or that has been received in the course of his or its official business by any such officer, commission, agency, or authority of the State Id. N.J.S.A. 47:1A-1.1

The New Jersey Superior Court has held that "[w]hile OPRA provides an alternative means of access to government documents not otherwise exempted from its reach, it is not intended as a research tool litigants may use to force government officials to identify and siphon useful information. Rather, OPRA simply operates to make identifiable government records 'readily accessible for inspection, copying, or examination.' N.J.S.A. 47:1A-1." (Emphasis added.) MAG Entertainment, LLC v. Division of Alcoholic Beverage Control, 375 N.J.Super. 534, 546 (App. Div. 2005) As the Court noted in invalidating MAG's request under OPRA:

"Most significantly, the request failed to identify with any specificity or particularity the governmental records sought. MAG provided neither names nor any identifiers other than a broad



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generic description of a brand or type of case prosecuted by the agency in the past. Such an open-ended demand required the Division's records custodian to manually search through all of the agency's files, analyze, compile and collate the information contained therein, and identify for MAG the cases relative to its selective enforcement defense in the OAL litigation. Further, once the cases were identified, the records custodian would then be required to evaluate, sort out, and determine the documents to be produced and those otherwise exempted." Id. at 549.

The Court further held that "[u]nder OPRA, agencies are required to disclose only 'identifiable' government records not otherwise exempt ... In short, OPRA does not countenance open-ended searches of an agency's files." Id.

In addition, in Bent v. Stafford Police Department, 381 N.J.Super. 30 (App. Div. 2005) the Superior Court references MAG in that the Court held that a requestor must specifically describe the document sought because OPRA operates to make identifiable government records "accessible." "As such, a proper request under OPRA must identify with reasonable clarity those documents that are desired, and a party cannot satisfy this requirement by simply requesting all of an agency's documents."

Moreover, in NJ Builders, supra, the Court enumerated the responsibilities of a custodian and a requestor as follows:

"OPRA identifies the responsibilities of the requestor and the agency relevant to the prompt access the law is designed to provide. The custodian, who is the person designated by the director of the agency, N.J.S.A. 47:1A-1.1, must adopt forms for requests, locate and redact documents, isolate exempt documents, assess fees and means of production, identify requests that require "extraordinary expenditure of time and effort" and warrant assessment of a "service charge," and, when unable to comply with a request, "indicate the specific basis." N.J.S.A. 47:1A-5(a)-(j). The requestor must pay the costs of reproduction and submit the request with information that is essential to permit the custodian to comply with its obligations. N.J.S.A. 47:1A-5(f), (g), (i). Research is not among the custodian's responsibilities." (Emphasis added), Id. at 177.

The Court additionally cited MAG by stating that "...when a request is 'complex' because it fails to specifically identify the documents sought, then that request is not 'encompassed' by OPRA..." The Court also quoted N.J.S.A. 47:1A-5.g. in that "[i]f a request for access to a government record would substantially disrupt agency operations, the custodian may deny access to the record after attempting to reach a reasonable solution with the requestor that accommodates the interests of the requestor and the agency." The Court further stated that "...the Legislature would not expect or want courts to require more persuasive proof of the substantiality of a disruption to agency operations than the agency's need to...generate new records..." Accordingly, the test under MAG then, is whether a requested record is a **specifically identifiable** government record.



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The Ocean County Sheriff's Office does not have records responsive to your request. The Ocean County Sheriff's Office does not maintain a "list of all property owners name and address that have been foreclosed and have any surplus funds available." Any surplus funds from Sheriff's Sales are turned over to the Superior Court of New Jersey, 25 Market Street, Trenton, NJ. 08625 The disposition of any surplus funds is decided by the Court.

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 (agency) 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 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.

Sincerely,

Lieutenant Adrian Bullock
Ocean County Sheriff's Office
Abullock@co.ocean.nj.us
(732)506-5393



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