



TOWNSHIP OF HOWELL
Office of the Municipal Clerk
4567 Route 9, North
2nd Floor
Howell, NJ 07731

July 20, 2021

Troy Smith

Via email: opra+request-24658-4bc010d4@requests.opramachine.com

RE: OPRA #21-906

Dear Troy,

The Township of Howell received your Open Public Records Act (OPRA) request on July 19, 2021. The official Records Custodian, Dwayne M. Harris, received your OPRA request on 7/19/2021. As such, the seven (7) business day deadline to respond to your request is 7/28/2021. This response to your request is being provided to you within the statutory time frame.

Your OPRA request sought access to the following: *All emails to or from any member of the governing body and Brian Geoghegan from various email accounts related to Vin Gopal, Eric Houghtaling and Joann Downey from 2016 to present.*

In accord with *Elcavage v. West Milford Twp. (Passaic)*, GRC Complaint No. 2009-07 (April 2010), *supra*, and its progeny, in order to specifically identify an e-mail, OPRA requests must contain: (1) the content and/or subject of the e-mail, (2) the specific date or range of dates during which the e-mail was transmitted or the e-mails were transmitted, and (3) a valid e-mail request must identify the sender and/or the recipient thereof." Id. at 5. See also *Armenti v. Robbinsville Bd. of Educ. (Mercer)*, GRC Complaint No. 2009-154 (Interim Order dated May 24, 2011) (applying the *Elcavage* factors to other forms of written correspondence).

Currently, your request fails to identify the content and/or subject of the e-mail making it invalid under OPRA. The 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). 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. at 549 (emphasis added).

To properly identify the records being sought, please identify specifically the content and/or subject of the e-mail[s]. Please respond in writing so that we may process your request. Failure

to provide written clarification of your request within seven days will result in the closure of this OPRA request.

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 Howell 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 web site 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,

Dwayne M. Harris

Dwayne M. Harris, RMC
Municipal Clerk

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