

February 17, 2016

-- Via Email [pborghi@redbanknj.org] Only

Pamela Borghi
90 Monmouth Street, Red Bank, NJ 07701

RE: 134 Pearl Street, Block 75.02, Lots 160 / 159.01 / 125.01
Red Bank, NJ 07701

Pamela Borghi,

Pursuant to the Federal Freedom of Information Act, 5 U.S.C. §552 *et seq.*, dealing with the examination and duplication of records maintained by public agencies, I request to review all files maintained by your Building, Code Enforcement, Fire, Health, Planning/ Zoning, Public Utilities, and Tax Assessors Departments regarding the above-referenced property. This request is in regard to an environmental assessment being conducted by The ELM Group, Inc. (ELM) for the above property. In order to fulfill our due-diligence requirements, ELM would like to review all of your files maintained for this property and make the determination as to which documents are relevant.

Files of importance include but are not limited to self-reporting, violations, NJDEP correspondence, USTs, ASTs, hazardous materials (use, storage or spills), wetlands, historic property ownership and development, zoning, health issues, septic fields, fires and on-site potable wells. Please also include any maps, site plans, building plans, aerials, zoning or tax maps for the above mentioned property if available. I also have attached the Trenton request form for access to government records.

If files are available electronically, please send to mpague@elminc.com or fax to 609-683-0129. If not, I would like to review the files in person at the Municipal Building. Please contact me at (609) 683-4848 so that I may schedule an appointment to review these files.

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Thank you for your cooperation in processing this request.

Sincerely,

THE ELM GROUP, INC.



Michael Pague, P.E.
Project Manager



BOROUGH OF RED BANK
OPEN PUBLIC RECORDS ACT REQUEST FORM
90 Monmouth Street Red Bank, NJ 07701
PH: 732-530-2740 FAX: 732-530-2757
pborghi@redbanknj.org
Pamela Borghi, Municipal Clerk



Important Notice

The last page of this form contains important information related to your rights concerning government records. Please read it carefully.

Requestor Information – Please Print

First Name	<u>Michael</u>	MI	_____	Last Name	<u>Pague</u>
E-mail Address	<u>mpague@elminc.com</u>				
Mailing Address	<u>345 Wall Street</u>				
City	<u>Princeton</u>	State	<u>NJ</u>	Zip	<u>08540</u>
Telephone	<u>(609) 683-4848</u>		FAX	<u>(609) 683-0129</u>	
Preferred Delivery:	Pick Up ☒	US Mail	☐	On-Site Inspect	☒
				Fax	_____
				E-mail	_____
If you are requesting records containing personal information, please circle one: Under penalty of N.J.S.A. 2C:28-3, I certify that I HAVE / HAVE NOT been convicted of any indictable offense under the laws of New Jersey, any other state, or the United States.					
Signature	<u>[Signature]</u>			Date	<u>2/17/17</u>

Payment Information

Maximum Authorization Cost \$ _____	
Select Payment Method	
Cash	Check Money Order
Fees:	Letter size pages - \$0.05 per page Legal size pages - \$0.07 per page Other materials (CD, DVD, etc) – actual cost of material
Delivery:	Delivery / postage fees additional depending upon delivery type.
Extras:	Special service charge dependent upon request.

Record Request Information: Please be as specific as possible in describing the records being requested. Also, please note that your preferred method of delivery will only be accommodated if the custodian has the technological means and the integrity of the records will not be jeopardized by such method of delivery.

Pursuant to the Federal Freedom of Information Act, 5 U.S.C. §552 et seq., dealing with the examination and duplication of records maintained by public agencies, I request to review all files maintained by your Building, Code Enforcement, Fire, Health, Planning/ Zoning, Public Utilities, and Tax Assessors Departments regarding 134 Pearl Street, Red Bank, NJ (Block 75.02, Lots 160 / 159.01 / 125.01).

Files of importance include but are not limited to self-reporting, violations, NJDEP correspondence, USTs, ASTs, hazardous materials (use, storage or spills), wetlands, historic property ownership and development, zoning, health issues, septic fields, fires and on-site potable wells from 1900 to the present date. Please also include any maps, site plans, building plans, aerials, zoning or tax maps for the above mentioned property if available.

AGENCY USE ONLY

Est. Document Cost	_____
Est. Delivery Cost	_____
Est. Extras Cost	_____
Total Est. Cost	_____
Deposit Amount	_____
Estimated Balance	_____
Deposit Date	_____

AGENCY USE ONLY

Disposition Notes Custodian: If any part of request cannot be delivered in seven business days, detail reasons here.	
In Progress	- Open _____
Denied	- Closed _____
Filled	- Closed _____
Partial	- Closed _____

AGENCY USE ONLY

Tracking Information		Final Cost
Tracking #	_____	Total _____
Rec'd Date	_____	Deposit _____
Ready Date	_____	Balance Due _____
Total Pages	_____	Balance Paid _____
Records Provided		
Custodian Signature _____		Date _____

DEPOSITS

The custodian may require a deposit against costs for reproducing documents sought through an anonymous request whenever the custodian anticipates that the documents requested will cost in excess of \$5 to reproduce.

Where a special service charge is warranted under OPRA, that amount will be communicated to you as required under the statute. You have the opportunity to review and object to the charge prior to it being incurred. If, however, you approve of the fact and amount of the special service charge, you may be required to pay a deposit or pay in full prior to reproduction of the documents.

YOUR REQUEST FOR RECORDS IS DENIED FOR THE FOLLOWING REASON(S):

(To be completed by the Custodian of Records – check the box of the numbered exemption(s) as they apply to the records requested. If multiple records are requested, be specific as to which exemption(s) apply to each record. **Response is due to requestor as soon as possible, but no later than seven business days.**)

N.J.S.A. 47:1A-1.1

- ☐ Inter-agency or intra-agency advisory, consultative or deliberative material
- ☐ Legislative records
- ☐ Law enforcement records:
 - ☐ Medical examiner photos
 - ☐ Criminal investigatory records (however, N.J.S.A. 47:1A-3.b. lists specific criminal investigatory information which must be disclosed)
 - ☐ Victims' records
- ☐ Trade secrets and proprietary commercial or financial information
- ☐ Any record within the attorney-client privilege
- ☐ Administrative or technical information regarding computer hardware, software and networks which, if disclosed would jeopardize computer security
- ☐ Emergency or security information or procedures for any buildings or facility which, if disclosed, would jeopardize security of the building or facility or persons therein
- ☐ Security measures and surveillance techniques which, if disclosed, would create a risk to the safety or persons, property, electronic data or software
- ☐ Information which, if disclosed, would give an advantage to competitors or bidders
- ☐ Information generated by or on behalf of public employers or public employees in connection with:
 - ☐ Any sexual harassment complaint filed with a public employer
 - ☐ Any grievance filed by or against an employee
 - ☐ Collective negotiations documents and statements of strategy or negotiating
- ☐ Information that is a communication between a public agency and its insurance carrier, administrative service organization or risk management office
- ☐ Information that is to be kept confidential pursuant to court order
- ☐ Certificate of honorable discharge issued by the United States government (Form DD-214) filed with a public agency
- ☐ Social security numbers
- ☐ Credit card numbers
- ☐ Unlisted telephone numbers
- ☐ Drivers' license numbers
- ☐ Certain records of higher education institutions:
 - ☐ Research records
 - ☐ Questions or scores for exam for employment or academics
 - ☐ Charitable contribution information
 - ☐ Rare book collections gifted for limited access
 - ☐ Admission applications
 - ☐ Student records, grievances or disciplinary proceedings revealing a students' identification
- ☐ Biotechnology trade secrets N.J.S.A. 47:1A-1.2
- ☐ Convicts requesting their victims' records N.J.S.A. 47:1A-2.2
- ☐ Ongoing investigations of non-law enforcement agencies (must prove disclosure is inimical to the public interest) N.J.S.A. 47:1A-3.a.
- ☐ Public defender records N.J.S.A. 47:1A-5.k.
- ☐ Upholds exemptions contained in other State or federal statutes and regulations, Executive Orders, Rules of Court, and privileges created by State Constitution, statute, court rule or judicial case law N.J.S.A. 47:1A-9
- ☐ Personnel and pension records (however, the following information must be disclosed):
 - An individual's name, title, position, salary, payroll record, length of service, date of separation and the reason for such separation, and the amount and type of any pension received
 - When required to be disclosed by another law, when disclosure is essential to the performance of official duties of a person duly authorized by this State or the US, or when authorized by an individual in interest
 - Data contained in information which disclose conformity with specific experiential, educational or medical qualifications required for government employment or for receipt of a public pension, but not including any detailed medical or psychological information N.J.S.A. 47:1A-10

N.J.S.A. 47:1A-1

- ☐ "a public agency has a responsibility and an obligation to safeguard from public access a citizen's personal information with which it has been entrusted when disclosure thereof would violate the citizen's reasonable expectation of privacy."

Burnett v. County of Bergen, 198 N.J. 408 (2009). Without ambiguity, the court held that the privacy provision "is neither a preface nor a preamble." Rather, "the very language expressed in the privacy clause reveals its substantive nature; it does not offer reasons why OPRA was adopted, as preambles typically do; instead, it focuses on the law's implementation." "Specifically, it imposes an obligation on public agencies to protect against disclosure of personal information which would run contrary to reasonable privacy interests."

Executive Order No. 21 (McGreevey 2002)

- ☐ Records where inspection, examination or copying would substantially interfere with the State's ability to protect and defend the State and its citizens against acts of sabotage or terrorism, or which, if disclosed, would materially increase the risk or consequences of potential acts of sabotage or terrorism.
- ☐ Records exempted from disclosure by State agencies' proposed rules.

Executive Order No. 26 (McGreevey 2002)

- ☐ Certain records maintained by the Office of the Governor
- ☐ Resumes, applications for employment or other information concerning job applicants while a recruitment search is ongoing
- ☐ Records of complaints and investigations undertaken pursuant to the Model Procedures for Internal Complaints Alleging Discrimination, Harassment or Hostile Environments
- ☐ Information relating to medical, psychiatric or psychological history, diagnosis, treatment or evaluation
- ☐ Information in a personal income or other tax return
- ☐ Information describing a natural person's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness, except as otherwise required by law to be disclosed
- ☐ Test questions, scoring keys and other examination data pertaining to the administration of an examination for public employment or licensing
- ☐ Records in the possession of another department (including NJ Office of Information Technology or State Archives) when those records are made confidential by regulation or EO 9.

Other Exemption(s) contained in a State statute, resolution of either or both House of the Legislature, regulation, Executive Order, Rules of Court, any federal law, federal regulation or federal order pursuant to N.J.S.A. 47:1A-9.a.

(Please provide detailed information regarding the exemption from disclosure for which you are relying to deny access to government records. If multiple records are requested, be specific as to which exemption(s) apply to each record.)

REQUEST FOR RECORDS UNDER THE COMMON LAW

If, in addition to requesting records under OPRA, you are also requesting the government records under the common law, please check the box below.

A public record under the common law is one required by law to be kept, or necessary to be kept in the discharge of a duty imposed by law, or directed by law to serve as a memorial and evidence of something written, said, or done, or a written memorial made by a public officer authorized to perform that function, or a writing filed in a public office. The elements essential to constitute a public record are that it be a written memorial, that it be made by a public officer, and that the officer be authorized by law to make it.

☐ Yes, I am also requesting the documents under common law.

If the information requested is a "public record" under common law and the requestor has a legally recognized interest in the subject matter contained in the material, then the material must be disclosed if the individual's right of access outweighs the State's interest in preventing disclosure.

Please set forth your interest in the subject matter contained in the requested material:

Note that any challenge to a denial of a request for records under the common law cannot be made to the Government Records Council, as the Government Records Council only has jurisdiction to adjudicate challenges to denials of OPRA requests. A challenge to the denial of access under the common law can be made by filing an action in Superior Court.