



City of Linden

Union County, New Jersey

Office of the City Clerk

City Hall - 301 North Wood Avenue
Linden, New Jersey 07036
(908) 474-8452
Fax: (908) 474-8451

Joseph C. Bodek, RMC, RPPO
City Clerk

Jennifer Honan
Deputy City Clerk

February 27, 2020

Kelly Roman
Opramachine request #9527-05a5cccd

Dear Ms. Roman:

The City of Linden is in receipt of your public records request, dated February 13, 2020, which was submitted pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq. ("OPRA"). You indicated that you would like any documents responsive to your request to be transmitted electronically. Please see the response to your request below:

- **Request: "Any and all documents, emails, and correspondence pertaining to ..."**

Response: Requests for "any and all" materials related to a particular subject matter are not proper under OPRA; rather, a request must seek specific, identifiable records. MAG Entertainment, LLC v. Division of Alcoholic Beverage Control, 375 N.J. Super. 534 (App. Div. 2005). While OPRA may provide access to governmental records otherwise unavailable, your request is not a proper request for specific documents within OPRA's reach, but rather a broad-based demand for research and analysis, which, as noted in MAG, is "outside the statutory ambit." MAG, at 550. Further, your request by definition seeks materials that may be subject to a number of exemptions under OPRA. Accordingly, your request must be denied. A valid OPRA request seeks specific, identifiable government records. Valid OPRA requests do not ask questions, do not seek information and do not require a custodian to conduct any research or create a new record.

If your request for access to a government record has been denied or unfilled within seven (7) business days as required by law, you have the right to challenge the decision by the BCIA 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 Counsel ("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, New Jersey 08625, or by email 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 the Superior Court should be directed to the Court Clerk in your County.

Thank you for your anticipated cooperation.

Very truly yours,

Jennifer Honan
Deputy Municipal Clerk, CMR, RMC

New Jersey Government Records Council ("GRC")



What to do if your request for a record has been denied

The New Jersey Open Public Records Act (N.J.S.A. 47:1A-1 et seq.) permits a person who believes that he or she has been unlawfully denied access to a public record either to file a complaint with the GRC or to file suit in Superior Court to challenge the decision and compel disclosure. This poster describes the procedures for taking such actions.

To file a complaint with the GRC:

- Visit the GRC's website at www.nj.gov/grc for information and to register your complaint. In the alternative, you may contact the GRC by telephone at 1-866-850-0511 or by e-mail at government.records@dca.nj.gov.
- When you file the written complaint, the GRC will offer both you and the public agency non-adversarial, impartial mediation. If mediation is not accepted or is not successful, the GRC will investigate the complaint.
- In some cases, the GRC can award attorney's fees to a complainant or impose a fine against a records custodian.
- There is no fee to file a complaint with the GRC.

To file a complaint in Superior Court:

- A requestor may start a summary (expedited) lawsuit in the Superior Court. A written complaint and order to show cause must be filed with the court.
- The court requires a filing fee, and you must serve the lawsuit papers on the appropriate parties.
- The court will schedule a hearing to resolve the dispute.
- If you disagree with the court's decision, you may appeal the decision to the Appellate Division of the Superior Court.
- If you are successful, you may be entitled to reasonable attorney's fees.
- You may wish to consult with an attorney to learn about initiating and pursuing a summary lawsuit in the Superior Court.
- Filing suit in Superior Court may result in a faster resolution, because the courts adjudicate cases every day, whereas the GRC only meets once a month.

Government Records Council, P.O. Box 819, Trenton, New Jersey 08625-0819

Joe Bodek

#2020-160

From: Kelly Roman <opra+request-9527-05a5cccd@requests.opramachine.com>
Sent: Thursday, February 13, 2020 7:50 AM
To: Joe Bodek
Subject: OPRA request - Scutari lawsuit and No Show Job

Dear Linden City,

This is a request for public records made under OPRA and the common law right of access. I am not required to fill out an official form. Please acknowledge receipt of this message.

Records requested:

1. Any and all documents in regards to the lawsuit between the City of Linden and plaintiffs Anthony and Wendell Kirkland.

This includes deposition, court and trial transcripts, statements by witness and court staff. Also final judgement and finding of the court.

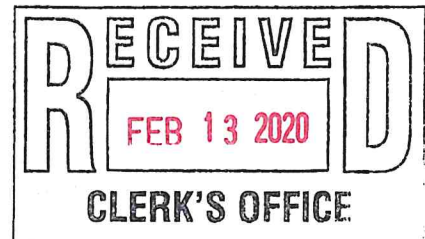
2. Any and all documents relating to former Prosecutor Nicholas Scutari and the investigation committee findings and report.

3. The dates and resolutions that were passed by the City of Linden reappointing Nicholas Scutari as prosecutor or/and municipal attorney.

4. Timesheets and attendance of Nicholas Scutari in his role as assistant municipal attorney, including meetings that he physical attended.

Yours faithfully,

Kelly Roman



Please use deliver records electronically via email to the below UNIQUE address for all replies to this request:
opra+request-9527-05a5cccd@requests.opramachine.com

Is jbodek@linden-nj.org the wrong address for OPRA requests to Linden City? If so, please contact us using this form:
https://opramachine.com/change_request/new?body=linden_city

Disclaimer: This message and any reply that you make will be published on the internet. Our privacy and copyright policies:
<https://opramachine.com/help/officers>

View this OPRA request & responses online:
https://opramachine.com/request/scutari_lawsuit_and_no_show_job

Please note that in some cases publication of requests and responses will be delayed.