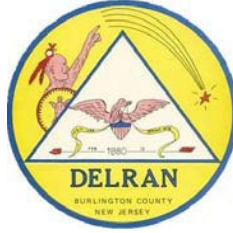


TOWNSHIP OF DELRAN

MAYOR
GARY CATRAMBONE

BUSINESS ADMINISTRATOR
JOSEPH B. BELLINA

TOWNSHIP CLERK
JAMEY EGGERS, RMC



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MARLOWE SMITH, WARD 3

900 CHESTER AVENUE
DELRAN NEW JERSEY 08075
856.461.7734

VIA EMAIL:

Anonymous Delran Resident

Re: OPRA Request #23-084

Dear Requestor:

The Township of Delran (the “Township”) is in receipt of your Request dated May 2, 2023, and received the same day pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq. (“OPRA”), requesting the following:

“Please provide all information and documentation of the settlement between the township, the mayor, and Patrick Duff including any communication with the JIF.”

Pursuant to a request for clarification, you amended your request to the following:

“I would like all communications regarding the settlement from 1/1/2023 to present and a copy of the settlement without redactions. Please include the total amount of the settlement as well as how the settlement is being paid.”

On May 11th, the Township provided the requested Settlement Agreement and the Resolution authorizing the execution of same. The Township also requested further clarification regarding the remainder of the OPRA request.

Pursuant to the additional request for clarification, you amended your request to the following:

1. “Please provide communications that are to and from the mayor, councilmen Lyons, councilman Jenney, and the former communications director with regards to the settlement”¹
2. “I am looking specifically for any settlement amount as how it was paid (surplus, taxes, JIF)”

On May 22, 2023, the Township advised that an extension to this request was required until May 26, 2023. This letter is to acknowledge receipt of your amended request, to which the Township responds as follows.

¹ The date range considered for this request was January 1, 2023 to May 11, 2023 as per the prior clarification provided for this request

Please be advised that a request pursuant to OPRA must identify the records sought with specificity. Bart v. Passaic County Pub. Hous. Agency, 406 N.J. Super. 445, 451 (App. Div. 2009). OPRA “is not intended as a research tool litigants may use to force government officials to identify and siphon useful information.” MAG Entertainment, LLC v. Division of Alcohol Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005). A custodian may reject a request that is overly broad or vague so as to prevent identification of the records sought. New Jersey Builders Ass’n v. New Jersey Council on Affordable Housing, 390 N.J. Super. 166, 172 (App. Div. 2007), cert. denied 190 N.J. 394 (2007). Moreover, the Appellate Division held in MAG Entertainment, LLC, 375 N.J. Super. at 549, that pursuant to OPRA:

Agencies are required to disclose only ‘identifiable’ government records not otherwise exempt. Wholesale requests for general information to be analyzed, collated and compiled by the responding government agency are not encompassed therein. In short, OPRA does not countenance open-ended searches of an agency’s files.

Without waiving any of the above-mentioned exceptions and/or reasons for non-disclosure of the information you seek in your request, and subject to those exceptions and/or reasons, we can provide the following responses to your request:

Response to Request #1 – “Please provide communications that are to and from the mayor, councilmen Lyons, councilman Jenney, and the former communications director with regards to the settlement”²:

After consultation with counsel, please be advised that this request is being denied pursuant to N.J.S.A. 47:1A-1.1 as all of the communications responsive to this request are records within the attorney-client privilege and therefore exempt from disclosure.

Response to Request #2 – “I am looking specifically for any settlement amount as how it was paid (surplus, taxes, JIF)”:

This request seeks information or asks questions and does not identify specific government records. As such, your request is an invalid OPRA request and is denied. This request is denied as it fails to identify a specific government record being sought. The Appellate Division held in MAG Entertainment, LLC, 375 N.J. Super. at 549, that pursuant to OPRA: “Agencies are required to disclose only ‘identifiable’ government records not otherwise exempt. Wholesale requests for general information to be analyzed, collated and compiled by the responding government agency are not encompassed therein. When a request is “complex” because it fails to specifically identify the documents sought, then that request is not “encompassed” by OPRA. See New Jersey Builders Association v. New Jersey Council on Affordable Housing, 390

² The date range considered for this request was January 1, 2023 to May 11, 2023 as per the prior clarification provided for this request

N.J.Super. 166, 180 (App. Div. 2007). Custodians are not required to conduct research or create new records in response to an 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 Delran 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 xxx@xxx.xxxxx.xx.xx, or at the web site at www.state.nj.us/grc. The Council 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,

Jamey Eggers
Township Clerk
Township of Delran