21-810

Donna Belton

From: Julian Leone <opra+request-24237-879f1def@requests.opramachine.com>
Sent: Wednesday, June 23, 2021 6:21 PM
To: clerkforms
Subject: OPRA request - Summons Data

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear Howell Township,

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:

I am requesting an electronic log of all summons issued by the Department of Land Use & Planning for the calendar year 2020. This data should include the code violation section, date of issue and fine amount.

Please note that electronic records must be provided free of charge as per N.J.S.A. 47:1A-5.b.

RECEIVED
2021 JUN 24 A 8:15
CLERK'S OFFICE

Thank you,

Julian

Please use deliver records electronically via email to the below UNIQUE address for all replies to this request:
opra+request-24237-879f1def@requests.opramachine.com

Is clerkforms@twp.howell.nj.us the wrong address for OPRA requests to Howell Township? If so, please contact us using this form:
https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fopramachine.com%2fchange_request%2fnew%3fbody%3dhowell_township&c=E,1,gM2qYhAFwObUnxka3s5TGhR_pMhr6anq0hjPnsXrWP2F3qguLpHcmA-ahj3zMAOdV2fPrRC8dk0ol_e5a4ITt17ra6IeJUQ7qvf8w9XJYTzBOtSynlRBXknPuDaB&typo=1

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View this OPRA request & responses online:
https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fopramachine.com%2frequest%2fsummons_data&c=E,1,posT2kCiU0d9cpAbf4bgK5ud7V4FRuMLXUz-SQJ3CHtBHB54WhNDZuOVMW_VKQOk_qWXipiMxacWD6eBY_Ucu2NX0L9LSzG0vzwhFKZnfuu2O0g,&typo=1

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

TOWNSHIP OF HOWELL

4567 Route 9 N. 2nd Fl
Post Office Box 580
Howell, NJ 07731-0580

(732) 938-4500
FAX (732) 414-3232
Website: www.twp.howell.nj.us

June 24, 2021

Julian Leone, opra+request-24237-879f1def@requests.opramachine.com

Dear Mr. Leone:

The Howell Township Clerk's Office received your Open Public Records Act (OPRA) request on June 24, 2021. The official Records Custodian, Allison Ciranni, received your OPRA request on June 24, 2021. As such, the seven (7) business day deadline to respond to your request is July 6, 2021. This response to your request is being provided to you on the 1st business day after the custodian's receipt of said request.

The table below identifies the records that being denied in whole or in part as well as the legal basis for each denial, as is required by N.J.S.A. 47:1A-6.

List of all records responsive to OPRA request (include the number of pages for each record).	**List of all records provided, with redactions, or denied in their entirety.**	**If records are disclosed with redactions, give a general nature description of the redactions.**	**If records were denied in their entirety, give a general nature description of the record.**	**List the legal explanation and statutory citation for the denial of access to records in their entirety or with redactions.**
			1. I am requesting an electronic log of all summons issued by the Department of Land Use $ Planning for the	

			calendar year 2020. This data should include the code violation section, date and fine amount	

* A list of OPRA's exemptions is attached to this response letter.

The basis for the denial is as follows. As an initial matter,"electronic log of all summons issued by the Department of Land Use & Planning for the calendar year of 2020. This data should include the code violation section, date of issue and fine amount". Under *N.J.S.A.* 47:1A-1.1, "Government record" or "record" means, "Any 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 or in a similar device, or any copy thereof, 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 of any political subdivision thereof, including subordinate boards thereof, 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 or of any political subdivision thereof, including subordinate boards thereof. The terms shall not include inter-agency or intra-agency advisory, consultative, or deliberative material." The OPRA report you seek does not exist we have no list, under OPRA guidelines if a document does not exist we are not required to create such a document.

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 [insert name of 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 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.

Sincerely,

Allison Ciranni

Allison Ciranni
Howell Township
Records Keeper

OPRA EXEMPTIONS
(Exceptions are noted in italics)

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

1) Inter-agency or intra-agency advisory, consultative or deliberative material (Note: generally refers to draft documents or documents used in a deliberative process).

2) Legislative records. Specifically:

   a. information received by a member of the Legislature from a constituent or information held by a member of the Legislature concerning a constituent, including but not limited to information in written form or contained in any e-mail or computer data base, or in any telephone record whatsoever, *unless it is information the constituent is required by law to transmit*;
   b. any memorandum, correspondence, notes, report or other communication prepared by, or for, the specific use of a member of the Legislature in the course of the member's official duties, *except that this provision shall not apply to an otherwise publicly-accessible report which is required by law to be submitted to the Legislature or its members.*

3) Medical examiner records – photographs, negatives, print, videotapes taken at the scene of death or in the course of post mortem examination or autopsy, *except:*

   a. when used in a criminal action or proceeding in this State which relates to the death of that person,
   b. for the use as a court of this State permits, by order after good cause has been shown and after written notification of the request for the court order has been served at least five days before the order is made upon the county prosecutor for the county in which the post mortem examination or autopsy occurred,
   c. for use in the field of forensic pathology or for use in medical or scientific education or research, or
   d. or use by any law enforcement agency in this State or any other state or federal law enforcement agency.

4) Criminal investigatory records - records which are not required by law to be made, maintained or kept on file that are held by a law enforcement agency which pertain to any criminal investigation or related civil enforcement proceeding. (Note: N.J.S.A. 47:1A-3.b. lists specific criminal investigatory information which must be disclosed).

5) Victims' records - an individually-identifiable file or document held by a victims' rights agency which pertains directly to a victim of a crime except that a victim of a crime shall have access to the victim's own records. "Victims' rights agency" means a public agency, or part thereof, the primary responsibility of which is providing services, including but not limited to food, shelter, or clothing, medical, psychiatric, psychological or legal services or referrals, information and referral services, counseling and support services, or financial services to victims of crimes, including victims of sexual assault, domestic violence, violent crime, child endangerment, child abuse or child neglect, and the Victims of Crime Compensation Board.

6) Trade secrets and proprietary commercial or financial information obtained from any source. Includes data processing software obtained by a public agency under a licensing agreement which prohibits its disclosure.

7) Any record within the attorney-client privilege.

8) Administrative or technical information regarding computer hardware, software and networks which, if disclosed would jeopardize computer security.

9) 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.

10) Security measures and surveillance techniques which, if disclosed, would create a risk to the safety or persons, property, electronic data or software.

11) Information which, if disclosed, would give an advantage to competitors or bidders.

12) Information generated by or on behalf of public employers or public employees in connection with:

a. Any sexual harassment complaint filed with a public employer;
b. Any grievance filed by or against an individual; or
c. Collective negotiations, including documents and statements of strategy or negotiating position.

13) Information which is a communication between a public agency and its insurance carrier, administrative service organization or risk management office.

14) Information which is to be kept confidential pursuant to court order.

15) Certificate of honorable discharge issued by the United States government (Form DD-214) filed with a public agency, *except that a veteran or the veteran's spouse or surviving spouse shall have access to the veteran's own records.*

16) Personal identifying information. Specifically:

a. Social security numbers, *except that a social security number contained in a record required by law to be made, maintained or kept on file by a public agency shall be disclosed when access to the document or disclosure of that information is not otherwise prohibited by State or federal law, regulation or order or by State statute, resolution of either or both houses of the Legislature, Executive Order of the Governor, rule of court or regulation promulgated under the authority of any statute or executive order of the Governor.*
b. Credit card numbers
c. Unlisted telephone numbers
d. Drivers' license numbers.

Except for:

a. Use by any government agency, including any court or law enforcement agency, in carrying out its functions,
b. or any private person or entity acting on behalf thereof,
c. or any private person or entity seeking to enforce payment of court-ordered child support; except with respect to the disclosure of driver information by the Division of Motor Vehicles as permitted by section 2 of P.L.1997, c.188 (C.39:2-3.4);

17) Certain records of higher education institutions:

a. Pedagogical, scholarly and/or academic research records and/or the specific details of any research project, *except that a custodian may not deny inspection of a government record or part thereof that gives the name, title, expenditures, source and amounts of funding and date when the final project summary of any research will be available.*

b. Test questions, scoring keys and other examination data pertaining to the administration of an examination for employment or academic examination.

c. Records of pursuit of charitable contributions or records containing the identity of a donor of a gift if the donor requires non-disclosure of the donor's identity as a condition of making the gift provided that the donor has not received any benefits of or from the institution of higher education in connection with such gift other than a request for memorialization or dedication.

d. Valuable or rare collections of books and/or documents obtained by gift, grant, bequest or devise conditioned upon limited public access.

e. Information contained on individual admission applications.

f. Information concerning student records or grievance or disciplinary proceedings against a student to the extent disclosure would reveal the identity of the student.

N.J.S.A. 47:1A-1.2

18) Biotechnology trade secrets.

N.J.S.A. 47:1A-2.2

19) Limitations to convicts - personal information pertaining to the person's victim or the victim's family, including but not limited to a victim's home address, home telephone number, work or school address, work telephone number, social security account number, medical history or any other identifying information. *Information may be released only if the information is necessary to assist in the defense of the requestor. A determination that the information is necessary to assist in the requestor's defense shall be made by the court upon motion by the requestor or his representative.*

N.J.S.A. 47:1A-3.a.

20) Ongoing investigations – any records pertaining to an investigation in progress by any public agency if disclosure of such record or records shall be detrimental to the public interest. *This provision shall not be construed to allow any public agency to prohibit access to a record of that agency that was open for public inspection, examination, or copying before the investigation commenced.*

N.J.S.A. 47:1A-5.k.

21) Public defender records that relate to the handling of any case, *unless authorized by law, court order, or the State Public Defender.*

N.J.S.A. 47:1A-9

22) Upholds exemptions contained in other State or federal statutes and regulations, Executive Orders of the Governor, Rules of Court, Constitution of this State, or judicial case law.

N.J.S.A. 47:1A-10

23) Personnel and pension records, *except specific information identified as follows*:

a. 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,

b. 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 United States, or when authorized by an individual in interest.

c. 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-1 (Legislative Findings)

24) Privacy Interest - "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."

Burnette 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)

1) 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.

2) Records exempted from disclosure by State agencies' promulgated rules are exempt from disclosure by this Order.

3) Executive Orders No. 9 (Hughes), 11 (Byrne), 79 (Byrne) and 69 (Whitman) are hereby continued to the extent that they are not inconsistent with this Executive Order.

Executive Order No. 9 (Hughes) exemptions that are still active:

a. Questions on examinations required to be conducted by any State or local governmental agency;
b. Personnel and pension records (same as N.J.S.A. 47:1A-10);
c. Records concerning morbidity, mortality and reportable diseases of named persons required to be made, maintained or kept by any State or local governmental agency;
d. Records which are required to be made, maintained or kept by any State or local governmental agency which would disclose information concerning illegitimacy;
e. Fingerprint cards, plates and photographs and other similar criminal investigation records which are required to be made, maintained or kept by any State or local governmental agency;
f. Criminal records required to be made, maintained and kept pursuant to the provisions of R. S. 53:1-20.1 and R. S. 53:1- 20.2;
g. Personal property tax returns required to be filed under the provisions of Chapter 4 of Title 54 of the Revised Statutes; and
h. Records relating to petitions for executive clemency.

Executive Order No. 11 (Byrne) exemptions are the same as N.J.S.A. 47:1A-10.

Executive Order No. 79 (Byrne) exemptions are the similar to # 8, 9, 10 above under N.J.S.A. 47:1A-1.1.

Executive Order No. 69 (Whitman) exemptions that are still active: Fingerprint cards, plates and photographs and similar criminal investigation records that are required to be made, maintained or kept by any State or local governmental agency.

Executive Order No. 26 (McGreevey 2002)

1) Certain records maintained by the Office of the Governor:

a. Any record made, maintained, kept on file or received by the Office of the Governor in the course of its official business which is subject to an executive privilege or grant of confidentiality established or recognized by the Constitution of this State, statute, court rules or judicial case law.
b. All portions of records, including electronic communications, that contain advisory, consultative or deliberative information or other records protected by a recognized privilege.
c. All portions of records containing information provided by an identifiable natural person outside the Office of the Governor which contains information that the sender is not required by law to transmit and which would constitute a clearly unwarranted invasion of personal privacy if disclosed.
d. If any of the foregoing records shall contain information not exempted by the provision of the Open Public Records Act or the preceding subparagraphs (a), (b) or (c) hereof then, in such event, that portion of the record so exempt shall be deleted or excised and access to the remainder of the record shall be promptly permitted.

2) Resumes, applications for employment or other information concerning job applicants while a recruitment search is ongoing. *The resumes of successful candidates shall be disclosed once the successful candidate is hired. The resumes of unsuccessful candidates may be disclosed after the search has been concluded and the position has been filled, but only where the unsuccessful candidate has consented to such disclosure.*

3) Records of complaints and investigations undertaken pursuant to the Model Procedures for Internal Complaints Alleging Discrimination, Harassment or Hostile Environments.

4) Information relating to medical, psychiatric or psychological history, diagnosis, treatment or evaluation.

5) Information in a personal income or other tax return

6) 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.

7) Test questions, scoring keys and other examination data pertaining to the administration of an examination for public employment or licensing.

8) Records in the possession of another department (including NJ Office of Information Technology or State Archives) when those records are made confidential by a regulation of that department or agency adopted pursuant to N.J.S.A. 47:1A-1 et seq. and Executive Order No. 9 (Hughes 1963), or pursuant to another law authorizing the department or agency to make records confidential or exempt from disclosure.

9) Records of a department or agency held by the Office of Information Technology (OIT) or the State Records Storage Center of the Division of Archives and Records Management (DARM) in the Department of State, or an offsite storage facility outside of the regular business office of the agency. Such records shall remain the legal property of the department or agency and be accessible for inspection or copying only through a request to the proper custodian of the department or agency. In the event that records of a department or agency have been or shall be transferred to and accessioned by the State Archives in the Division of Archives and Records Management, all such records shall become the legal property of the State Archives, and requests for access to them shall be submitted directly to the State Archives.