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E-Mail: RVarady@LBVKlaw.com

May 29, 2025

Via Email: opra+request-76877-644489bc@requests.opramachine.com
Anonymous Resident

Re: Township of Clark May 28, 2025 OPRA Request

Dear Anonymous Resident,

Please be advised that I have been asked to respond to your OPRA request of May 28, 2025.

Your OPRA request sought access to the following:

1. Any and all Financial Agreements (including PILOT agreements) entered into by the Township of Clark with the owner(s) or developer(s) of Walnut Hill Apartments, under the Long-Term Tax Exemption Law (N.J.S.A. 40A:20-1 et seq.).
2. Any deed restrictions, regulatory agreements, or other documents related to affordability controls or affordable housing requirements for Walnut Hill Apartments, including:

The number of affordable units

The term (duration) of the affordability restrictions

Any renewal or expiration dates
3. Any documentation indicating whether Walnut Hill Apartments currently qualifies for or contributes to the Township's Affordable Housing Obligation, including any mention in the

Township's Housing Element and Fair Share Plan or submissions to COAH or the Fair Share Housing Center.

The following records are being provided in their entirety and are responsive to your request:

1. See Financial Agreement BY AND BETWEEN THE TOWNSHIP OF CLARK AND CLARK WALNUT DEVELOPERS URBAN RENEWAL, LLC DATED AS November 16, 2020 (37 pages); Application for Long Term Tax Exemption (78 pages).
2. See HOUSING ELEMENT OF THE MASTER PLAN dated November 20, 2017 (63 pages).
3. Your request is denied as OPRA requests "must identify with reasonable clarity those documents that are desired, and a party cannot satisfy this requirement by simply requesting all of any agency's documents." *Bent v. Twp. of Stafford Police Dep't, Custodian of Records*, 381 N.J. Super. 30, 37 (App. Div. 2005). A proper OPRA request must state "a specific subject matter that [is] clearly and reasonably described with sufficient identifying information." *Burke v. Brandes*, 429 N.J. Super. 169, 176 (App. Div. 2012). Custodians are not required to conduct research or create new records in response to an OPRA request. OPRA only allows requests for records, not requests for information. In this regard, OPRA "is not intended as a research tool . . . to force government officials to identify and siphon useful information." *MAG Entm't, LLC v. Div. of Alcoholic Beverage Control*, 375 N.J. Super. 534, 546 (App. Div. 2005). In other words, a records custodian is not required "to conduct research among its records . . . and correlate data from various government records in the custodian's possession." *Ibid*. To qualify under OPRA then, the request must reasonably identify a record and not generally data, information or statistics. Nor does OPRA "authorize a party to make a blanket request for every document" a public agency has on file. Rather, a party requesting access to a public record under OPRA must specifically describe the document sought. *Bent, supra*, 381 N.J. Super at 37 (internal citations omitted); *see also N.J. Builder's Ass'n v. N.J. Council on Affordable Hous.*, 390 N.J. Super. 166, 172 (App. Div. 2007) (denying a request for "any and all documents and data" for asking the agency to identify the documents rather than specifically describing the documents sought).

Your request is not limited to particularized identifiable government records. Your request requires the custodian to exercise discretion, survey employees, conduct research and/or create new records. As such, your request is denied as it is overly broad and invalid under OPRA as it fails to properly identify the records being sought.

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 clerk 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,
La Corte, Bundy, Varady & Kinsella

/s/Robert F. Varady
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cc: Edith Merkel (via email)