

Donna Belton

18-1208

From: Julian Leone <opra+request-2596-92e1bb8c@requests.opramachine.com>
Sent: Tuesday, October 02, 2018 10:25 PM
To: clerkforms
Subject: OPRA request - Zoning Violation Research

Dear Howell Township,

This is a request for public records made under OPRA and the common law right of access. Please acknowledge receipt of this message.

Records requested:

- 1) Logs containing the following metadata for all emails SENT by Code Inspector John Aguiar since he began his employment with the township: "sender," "recipient(s)," "date/time," and "subject."
- 2) Logs containing the following metadata for all emails RECEIVED by Code Inspector John Aguiar since he began his employment with the township: "sender," "recipient(s)," "date/time," and "subject."
- 3) A copy of all Zoning Violation letters sent by the Department of Community Development & Land Use from January 1, 2018 through September 30, 2018. - listed by Block/Lot only
- 4) A copy of all summons issued by the Department of Community Development & Land Use from January 1, 2018 through September 30, 2018.

Thank you,

Julian Leone

Please use this UNIQUE email address for all replies to this request and no other:
opra+request-2596-92e1bb8c@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,tA6RoSbABbX5bl_xQ-QqT5Zm4_w4J0j2yHc_yBC7xiCFipu2A5k85UUsmgoreSv8METQiV08qgwprq7uZlZr3bR2db1h24uiVoNFVOCs-mgNHkwiaB62jb2T_nE,&typo=1

Disclaimer: This message and any reply that you make will be published on the internet. Our privacy and copyright policies:

https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fopramachine.com%2fhelpp%2fofficers&c=E,1,XDAq4y4ItUS3_HR7jtyPZ15744WYpCx9zORAKF1SPQamle9RggVerglSxHoQ9mkwkgY1LNzJhPQnitT9z8eld1--3Qcjj13DcBw2R_wp3WfKhcOtOIV_Woc,&typo=1

TOWNSHIP OF HOWELL
RECEIVED
OCT - 3 A 8:29
CLERK'S OFFICE



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

October 23, 2018

VIA EMAIL TO Julian Leone

opra+request-2596-92e1bb8c@requests.opramachine.com

Mr. Julian Leone

Re: OPRA Request to Township of Howell dated 10/15/18

Dear Mr. Leone,

The Township of Howell received your Open Public Records Act (OPRA) request on October 2, 2018. The official Records Custodian, Penny Wollman, received your OPRA request on October 3, 2018. After submitting your OPRA request, you were contacted by Township Officials requesting a meeting to discuss issues involving violations relating to a conservation easement on your property. The meeting took place on October 12, 2018. After the meeting, you were contacted by email to determine whether you would hold your request in abeyance while the Township considered your position relating to the conservation easement issue. You refused. Consequently, you were informed that an extension of the response time to October 23 was required.

Your request seeks the following:

- 1) Logs containing the following metadata for all emails SENT by Code Inspector John Aguiar since he began his employment with the township: "sender," "recipient(s)," "date/time," and "subject."
- 2) Logs containing the following metadata for all emails RECEIVED by Code Inspector John Aguiar since he began his employment with the township: "sender," "recipient(s)," "date/time," and "subject."
- 3) A copy of all Zoning Violation letters sent by the Department of Community Development & Land Use from January 1, 2018 through September 30, 2018.

- 4) A copy of all summons issued by the Department of Community Development & Land Use from January 1, 2018 through September 30, 2018.”

With regard to your first and second requests, they do not identify specific government records and are therefore invalid. Because they are invalid, they are denied. 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 N.J.Super. 166, 180 (App. Div. 2007). A proper request under OPRA must identify with **reasonable clarity** those documents that are desired, and a party cannot satisfy this requirement by simply requesting all of an agency’s documents. *See Bent v. Stafford Police Department*, 381 N.J.Super. 30, 37 (App. Div. 2005).

Although there is some case law indicating that a custodian may be required to create email logs responsive to a request, your particular request is unbounded in time or breadth. You simply requested every email ever sent to or from Mr. Aguiar. Our initial search indicates that there are at least 7,100 potentially responsive emails. The Township’s current outlook export system does not incorporate date and time into the log; emails would need to be individually reviewed, and the information would have to be input into the log manually. Therefore, the time associated with satisfying the first two requests would substantially interfere with Township operations. At a reasonable rate of one email per minute it would take about 120 hours to complete the project. Further, because the Township could not allow an employee to work full time on this request; at 2.5 hours per day, it would take about 2.5 months to complete the logs.¹

With regard to items 3 and 4, OPRA allows public agencies to impose special service charges whenever the nature, format, manner of collation, or volume of a government record embodied in the form of printed matter to be inspected, examined, or copied pursuant to this section is such that the record cannot be reproduced by ordinary document copying equipment in ordinary business size or when fulfilling a request requires an extraordinary expenditure of time and effort. *See N.J.S.A. 47:1A-5.c.* Special service charges must be based upon the actual direct cost of providing the copy or copies. OPRA mandates that the requestor shall have the opportunity to review and object to the charge prior to it being incurred. *See N.J.S.A. 47:1A-5.c.* In light of the foregoing, a total special service charge of \$3,935.18 will apply.²

3. **A copy of all Zoning Violation letters sent by the Department of Community Development & Land Use from January 1, 2018 through September 30, 2018.**
 - a. The department issued 977 violations during that time period.
 - b. Effort Required to Fulfill:
 - i. Generate list through online program

¹ Even if the Township responded to the requests, a special service charge would apply. At the lowest hourly rate of \$20.63 per hour, it would cost approximately \$2,500.00.

² This calculation does not include the special service charge hypothetically associated with requests 1 and 2. If that number is included the total would be over \$6,400.00

- ii. Cross reference list with files
 - iii. Manually review all files
 - iv. Pull and copy/scan all violation letters
- c. Timing: Reviewing files and scanning and copying:
 - i. 1-2 weeks (40 total hours)
 - ii. Least costly administrative assistant makes an hourly rate of \$20.63
 - iii. Total cost for effort = **\$825.20**
- d. Materials:
 - i. Approximately 1,250 pages (majority of letters are one page with about 25% estimated to be 2 or more pages)
 - ii. At \$0.05 per page - **\$62.50**
- e. Redaction:
 - i. Each document will need to have all personal information reviewed and redacted. The same administrative assistant will need an additional 40 hours to redact all information.
 - ii. Total cost at \$20.63 for 40 hours = **\$825.20**
- f. Supervisor oversight:
 - i. Director of Land Use will review the documents compiled to make sure everything requested has been provided. Director will also review redactions to ensure privileged information is excluded. This will require 7 hours of effort.
 - ii. Total cost at \$49.87 for 7 hours = **\$349.09**

Total cost for Request 3 = \$2,061.99

4. A copy of all summonses issued by the Department of Community Development & Land Use from January 1, 2018 through September 30, 2018.

- a. The Department has issued 477 summonses in this time frame
- b. Effort:
 - i. Generate list through online program
 - ii. Cross reference list with files
 - iii. Pull and copy/scan all summonses
- c. Timing: pulling the files and scanning and copying:
 - i. It is estimated that this will take only 20 hours due to the fact that the department will already have pulled the files for the previous request
 - ii. Administrative assistant rate of \$20.63
 - iii. Total cost for effort = **\$412.60**

- d. Materials:
 - i. Of the 477 summonses, this will most likely result in 1600 pages (the majority of summonses are 3 pages with some being 4 or more)
 - ii. At \$0.05 per page this is a total of **\$80.00**
- e. Redaction:
 - i. Each document will need to have all personal information reviewed and redacted. This is a more difficult task as the summonses are handwritten and have more parts to redact.
 - ii. Total cost at \$20.63 for 50 hours = **\$1,031.50**
- f. Supervisor oversight:
 - i. Director of Land Use will review the documents compiled to make sure everything requested has been provided. Director will also review redactions to ensure privileged information is excluded. This will require 7 hours of effort.
 - ii. Total cost at \$49.87 for 7 hours = **\$349.09**

Total cost for Request 4 = \$1,873.19

SUMMARY TABLE OF COSTS

REQUEST 3	Rate	Unit	Count	Total
Time (admin assistant)	20.63	Per hour	40	\$825.20
Redaction (admin assistant)	20.63	Per hour	20	\$825.20
Supervisor	49.87	Per hour	7	\$349.09
Materials	0.05	Per page	1,250	\$62.50
			Total	\$2,061.99

REQUEST 4	Rate	Unit	Count	Total
Time (admin assistant)	20.63	Per hour	20	\$412.60
Redaction	20.63	Per hour	20	\$1,031.5

Supervisor	49.87	Per hour	7	\$349.09
Materials	0.05	Per page	1,600	\$80.00
			Total	\$1,873.19

TOTAL COST FOR REQUESTS 3 AND 4

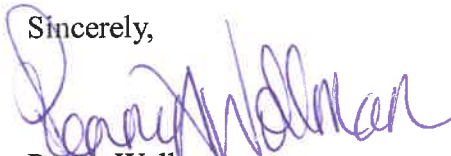
\$3,935.18

The time to complete Requests 3 and 4 will be approximately 6-8 weeks because the Township cannot dedicate staff to the responses on a full-time basis without substantially interfering with its operations.

Kindly respond in writing with your acceptance or rejection of this estimated charge. We will not begin to process the request until we receive your written acceptance *and* payment.

If you reject the estimated charge and you wish to challenge the special service charge, you have a right to challenge the decision. 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 GRC 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,



Penny Wollman
Township Clerk
Records Custodian