

HERRICK, FEINSTEIN LLP
One Gateway Center
22nd Floor
Newark, New Jersey 07102
(973) 274-2000
Attorneys for Plaintiffs
M&J Comprelli Realty, LLC and Joseph Comprelli

RECEIVED
CUSTOMER SERVICE TEAM

MAR 05 2010

SUPERIOR COURT OF NEW JERSEY
COUNTY OF HUDSON
CIVIL DIVISION #1

FILED
CUSTOMER SERVICE TEAM

MAR 05 2010

SUPERIOR COURT OF NEW JERSEY
COUNTY OF HUDSON
CIVIL DIVISION #1

----- X
M&J COMPRELLI REALTY, LLC, AND
JOSEPH COMPRELLI,

Plaintiffs,

vs.

TOWN OF HARRISON and JOHN DOES 1
THROUGH 5 (FICTITIOUS PERSONS),

Defendants.
----- X

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
HUDSON COUNTY
DOCKET NO.: L-1179-10

Civil Action

VERIFIED COMPLAINT

Plaintiffs M&J Comprelli Realty, LLC ("M&J Comprelli") and Joseph Comprelli (collectively "Plaintiffs"), state as follows by way of complaint against defendants Town of Harrison (the "Town") and John Does 1 through 5 (collectively, "Defendants"):

THE PARTIES

1. M&J Comprelli is a limited liability company formed and organized under the laws of the State of New Jersey, having a business address at 63 Tiffany Drive, East Hanover, NJ 07936.
2. Joseph Comprelli is an individual and the managing member of M&J Comprelli Realty, LLC, having a business address at 63 Tiffany Drive, East Hanover, NJ 07936.
3. The Town is a municipality in the State of New Jersey, County of Hudson.

4. John Does 1 through 5 (fictitious persons) are persons who have participated in the matters set forth herein and/or who have exercised responsibility, dominion and/or control with respect to such matters.

FACTS RELEVANT TO ALL CLAIMS FOR RELIEF

A. M&J Comprelli's Parking Lots and the Town's Entries onto the Lots

5. M&J Comprelli owns and/or operates certain commuter parking lots located at 1000 Frank E. Rodgers Boulevard South, Harrison, New Jersey (the "Lots").

6. Over the years, the Town has issued a number of licenses with respect to the Lots, by which the Town has confirmed that M&J Comprelli is duly authorized to operate commuter parking lots.

7. Beginning in or about late 2009, the Town sent its agents to repeatedly enter the Lots without permission or authorization, on virtually each weekday from November 4, 2009 through at least January 2010.

8. Upon information and belief, the Town was attempting to assess the status of M&J Comprelli's business and was counting the number of vehicles in the Lots and recording this information in a log (the "Log"). The Log is attached hereto as Exhibit A.

9. By letters dated November 24, 2009 and January 7, 2010, Plaintiffs demanded that the Town cease and desist its unauthorized entry onto the Lots and its harassment of Plaintiffs. A copy of the November 24, 2009 Letter is attached hereto as Exhibit B, and a copy of the January 7, 2010 Letter is attached hereto as Exhibit G.

10. Upon information and belief, the Town ignored Plaintiffs' demands to cease and desist and continued to send its agents onto the Lots.

B. Plaintiffs' Requests for Government/Public Records from the Town

11. By letter dated November 24, 2009, Plaintiffs requested that the Town produce various government/public records related to the Town's inspections of the Lots. In this same correspondence, Plaintiffs advised the Town that they were concerned that they were being singled out by the Town's trespass, harassment and inspections, and requested public records relating to other commuter parking lots and parking structures within the Town, in order to ascertain whether Plaintiffs were receiving disparate treatment under the law. See November 24, 2009 Letter, Exhibit B.

12. On December 9, 2009, Plaintiffs again wrote to the Town reiterating their requests for public records and noted the applicable laws that required the Town to produce the requested documents. In this same letter, Plaintiffs requested additional public documents related to the Lots, commuter parking licenses and commuter parking lots in the Town, and communications between the Township of Harrison and the Harrison Redevelopment Agency and/or any designated redeveloper regarding commuter parking lots. A copy of the December 9, 2009 Letter is attached as Exhibit C.

13. On December 23, 2009, at the request of the Town, Plaintiffs submitted an OPRA request form and referenced the specific requests made in their letter of December 9, 2009. Copies of the December 23, 2009 Letter and OPRA request form are attached as Exhibit D.

14. On January 5, 2010, Plaintiffs wrote to the Town to remind the Town of Plaintiffs' pending requests for government/public records, and to make clear that Plaintiffs stood by these requests and awaited production of the public records. A copy of the January 5, 2010 Letter to Harrison is attached hereto as Exhibit E.

15. On January 5, 2010, the Town finally wrote to Plaintiffs regarding their various requests for public records. The Town, however, failed to produce any responsive documents, except the Log that showed its unauthorized entry onto the Lots from November 4, 2009 through January 4, 2010 (see Exhibit A). The Town's stated basis for failing to produce the requested records was that Plaintiffs' requests were overly broad. The Town, however, added, that if Plaintiffs clarified their requests, the Town would promptly provide Plaintiffs with the requested documents. A copy of the January 5, 2010 Letter to Plaintiffs is attached as Exhibit F.

16. On January 7, 2010, Plaintiffs wrote back to the Town and clarified their requests as requested, setting forth with more specificity the records that were being sought. A copy of the January 7, 2010 Letter is attached as Exhibit G.

17. On January 19, 2010, the Town wrote to Plaintiffs and officially denied Plaintiffs' request for records, claiming that these requests were "impossible to answer." After its blanket denial of Plaintiffs' specific requests (excepting the 5-page Log), the Town stated, however, that it was "ready and willing to discuss how [Plaintiffs'] request could be revised to comply with OPRA so that the Town could then produce those documents that are reasonably identifiable and not otherwise subject to OPRA exemption." A copy of the January 19, 2010 Letter is attached as Exhibit H.

18. On January 21, 2010, Plaintiffs promptly replied to the Town and reiterated that they had already provided the Town with specifically-framed requests for government/public records, just as the Town had asked them to do. Plaintiffs also reminded the Town of its legal obligations to respond to the various pending requests for public records and

informed the Town that they would seek appropriate lawful relief, including legal fees and costs, for having to do so. A copy of the January 21, 2010 Letter is attached as Exhibit I.

19. On January 22, 2010, the Town wrote back to Plaintiffs asking that the requests be again revised, specifically complaining about the use of certain phrases, and stated that if Plaintiffs would amend their requests, "the Town would be pleased to produce" responsive documents. A copy of the January 22, 2010 Letter is attached as Exhibit J.

20. On February 24, 2010, in a further attempt to obtain the Town's compliance with their requests and to attempt to avoid litigation, Plaintiffs once again revised their requests for government/public records, removing the very words the Town complained of in the Town's January 22, 2010 correspondence. Plaintiffs informed the Town that if it did not immediately respond to their requests, Plaintiffs would seek appropriate legal recourse. A copy of the February 24, 2010 Letter is attached as Exhibit K.

21. To date, the Town has not produced, or granted access to, the government/public records requested by Plaintiffs.

22. Due to the Town's repeated, continual and deliberate violation of its duty to comply with the law -- namely the New Jersey Open Public Records Act, N.J.S.A. 47:1A-1 et seq. ("OPRA"), the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq. ("OPMA"), and other applicable common, statutory and regulatory law -- Plaintiffs had no choice but to file this lawsuit.

23. By reason of the foregoing, Plaintiffs has been wrongfully deprived of the government/public records that they rightfully seek from the Town and Plaintiffs have been harmed and damaged as a consequence.

FIRST COUNT

Violation of the New Jersey Open Public Records Act
N.J.S.A. 47:1A-1, et. seq.

1. Plaintiffs repeat and reallege each and every allegation set forth in the preceding paragraphs of the Complaint as if same were fully set forth herein.

2. As set forth in detail above and pursuant to OPRA, Plaintiffs requested specific government/public records from the Town on numerous occasions from November 24, 2009 through February 24, 2010.

3. Pursuant to OPRA, the records requested by Plaintiffs constitute government/public records.

4. Defendants are the custodian(s) of the government records that Plaintiffs requested.

5. Defendants improperly, and without authorization by law, denied Plaintiffs' request for access to government/public records, with the exception of the 5-page Log, that is excluded from this Complaint.

6. Defendants knowingly and willfully violated OPRA when they unreasonably and without justification denied Plaintiffs' requests.

WHEREFORE, Plaintiffs demand judgment against Defendants as follows:

- a) Directing that the Town immediately produce all documents and records requested by Plaintiffs;
- b) Granting damages, plus pre- and post-judgment interest;
- c) Granting legal fees and costs of suit;
- d) Imposing civil penalties on Defendants; and
- e) Granting such other and further relief as the Court may deem just and equitable.

SECOND COUNT

Attorneys Fees to Get Public Records
N.J.S.A. 47:1A-6

1. Plaintiffs repeat and reallege each and every allegation set forth in the preceding paragraphs of the Complaint as if same were fully set forth herein.
2. Plaintiffs were improperly denied access to the government records that they requested from the Town.
3. If Plaintiffs prevail on Count One of this Complaint, Plaintiffs are entitled to recover legal fees and costs of suit incurred in prosecuting this action under N.J.S.A. 47:1A-6.

WHEREFORE, Plaintiffs demand judgment against Defendants as follows:

- a) Granting attorneys' fees and costs of suit; and
- b) Granting such other and further relief as the Court may deem just and equitable.

THIRD COUNT

Violation of the New Jersey Open Public Meetings Act
N.J.S.A. 10:4-6 et. seq.

1. Plaintiffs repeat and reallege each and every allegation set forth in the preceding paragraphs of the Complaint as if same were fully set forth herein.
2. As set forth in detail above and pursuant to OPMA, Plaintiffs requested specific government records from the Town on numerous occasions from November 24, 2009 through February 24, 2010. Included in these requests are minutes from public meetings.
3. Defendants have failed to promptly produce, or grant Plaintiffs access to, the requested meeting minutes in violation of OPMA.

WHEREFORE, Plaintiffs demand judgment against Defendants as follows:

- a) Directing that the Town immediately produce all documents and records requested by Plaintiffs;
- b) Granting damages, plus pre- and post-judgment interest;
- c) Granting legal fees and costs of suit; and
- d) Granting such other and further relief as the Court may deem just and equitable.

FOURTH COUNT

Common Law Access to Public Records

1. Plaintiffs repeat and reallege each and every allegation set forth in the preceding paragraphs of the Complaint as if same were fully set forth herein.
2. Plaintiffs seek access to public records, as set forth with specificity in its requests to Defendants dated November 24, 2009 through February 24, 2010. Plaintiffs are entitled to inspect these records under the common law of the State of New Jersey.
3. Plaintiffs have an interest in the requested public records, as they directly relate to the Town's activities and Plaintiffs' ability to conduct business in the Town.

WHEREFORE, Plaintiffs demand judgment against Defendants as follows:

- a) Directing that the Town immediately produce all documents and records requested by Plaintiffs;
- b) Granting damages, plus pre- and post-judgment interest;
- c) Granting legal fees and costs of suit;
- d) Imposing civil penalties on Defendants; and
- e) Granting such other and further relief as the Court may deem just and equitable.

FIFTH COUNT

Attorneys Fees to Get Public Records
New Jersey Common Law

1. Plaintiffs repeat and reallege each and every allegation set forth in the preceding paragraphs of the Complaint as if same were fully set forth herein.
2. Plaintiffs were improperly denied access to the public records that they requested from the Town.
3. If Plaintiffs prevail on Count Four of this Complaint, Plaintiffs are entitled to recover legal fees and costs of suit incurred in prosecuting this action under New Jersey common law.

WHEREFORE, Plaintiffs demand judgment against Defendants as follows:

- a) Granting attorneys' fees and costs of suit; and
- b) Granting such other and further relief as the Court may deem just and equitable.

Date: March 5, 2010

HERRICK, FEINSTEIN LLP
Attorneys for Plaintiffs M&J Comprelli
Realty, LLC and Joseph Comprelli

By: 

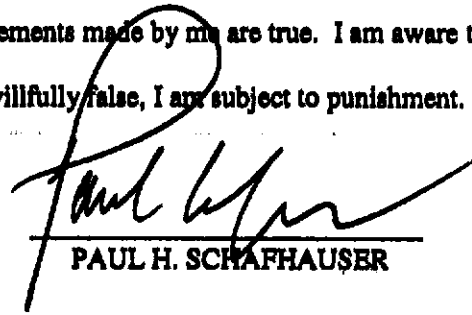
Paul H. Schafhauser
One Gateway Center
Newark, N.J. 07102

CERTIFICATION PURSUANT TO R. 4:5-1

I hereby certify in accordance with Rule 4:5-1 that to the best of my knowledge, the matter in controversy is not the subject of any other pending action or arbitration proceeding.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Date: March 5, 2010



PAUL H. SCHAFHAUSER

VERIFICATION

JOSEPH COMPRELLI, of full age, hereby certifies and says:

1. I am the managing member of plaintiff M&J Comprelli Realty, LLC and am also a plaintiff in the above-captioned litigation.

2. I have read the Verified Complaint and am aware of its contents. Those allegations of the Verified Complaint which are made upon knowledge are true and the documents attached hereto are true copies.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Date: March 4, 2010

Joseph Comprelli

JOSEPH COMPRELLI

GENUINENESS CERTIFICATION

PAUL H. SCHAFHAUSER, of full age, hereby certifies as follows:

1. I am an attorney at law of the State of New Jersey and I am a member of the firm of Herrick, Feinstein LLP.

2. Pursuant to Rule 1:4-4(c), I certify as to the genuineness of the telefax copy signature of Joseph Comprelli on the foregoing Verification. If requested, a copy of the Verification with an original signature affixed thereto can be filed with the Court.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.



PAUL H. SCHAFHAUSER

Dated: March 5, 2010

DATE	Path	CARS	Sig.
11/4/09		850	Point Campbell
11/5/09		830	Point Campbell
11/6/09		870	Point Campbell
11/9/09		820	Brian Restaurant
11/10/09		830	Brian Restaurant
11/12/09		830	Brian Restaurant
11/13/09		810	Brian Restaurant
11/17		850	Brian Restaurant
11/18		835	Brian Restaurant
11-19		800	Brian Restaurant
11-20		815	Brian Restaurant
11-23		790	Brian Restaurant
11-24		810	Brian Restaurant
11-30		825	Brian Restaurant
12-1		830	Brian Restaurant
12-2		815	Brian Restaurant

A

Patt

12/31	840	BR
1/4	835	BR
12/7	815	Buen Rentat
12/8	837	Buen Rentat
12/9	825	Buen Rentat
12/10	815	Buen Rentat
12/11	800	Buen Rentat
12/14	805	Buen Rentat
12/15	910	Buen Rentat
12/16	810	Buen Rentat
12/17	820	Buen Rentat
12/18	800	Buen Rentat
12/21	756	Buen Rentat
12/22	775	Buen Rentat
12/23	760	Buen Rentat
12/28	740	Buen Rentat
12/29	780	Buen Rentat
12/30	750	Buen Rentat
01/4	815	Buen Rentat

S 2nd

11/9

7000

Russ Lowell

11/10

980

Russ Lowell

11/12

960

Russ Lowell

11/14

780

Russ Lowell

11/17

825

Brian Lowell

PAT 14

11/16

850

Russ Lowell

~~11/16 825~~

~~Russ Lowell~~

S 2nd

11/18	815	Brian Ruskat
11/14	790	Brian Ruskat
11/20	775	Brian Ruskat
11/23	785	Brian Ruskat
11/24	750	Brian Ruskat
11/30	770	Brian Ruskat
12/1	790	Brian Ruskat
12/2	810	
12/3	825	Brian Ruskat
12/4	830	Brian Ruskat
12/7	825	Brian Ruskat
12/8	840	Brian Ruskat
12/9	795	Brian Ruskat
12/10	815	Brian Ruskat
12/11	805	Brian Ruskat
12/14	740	Brian Ruskat
12/15	765	Brian Ruskat
12/16	800	Brian Ruskat
12/17	785	Brian Ruskat
12/18	795	Brian Ruskat

12/21 725

12/22 725

12/23 740

Brain Rental

Brain Rental

Brain Rental

12/28 715

12/29 710

12/30 790

Brain Rental

Brain Rental

Brain Rental

1/4 765

Brain Rental

HERRICK

New York
Newark
Princeton

PAUL H. SCHAFHAUSER
PARTNER
Direct Tel: 973.274.3000
Direct Fax: 973.274.6414
Email: paul.schafhauser@herrick.com

November 24, 2009

BY FAX AND MAIL

Paul J. Zarbstaki, Esq.
318 Harrison Avenue
Harrison, New Jersey 07029

Re: Town of Harrison Ordinance No. 1223

Dear Mr. Zarbstaki:

As you are aware, this firm represents M & J Comprilli Realty, LLC ("Comprilli"), which owns and/or operates certain commuter parking lots in the Town of Harrison. On November 17, 2009, the Harrison Town Council introduced Ordinance No. 1223. If adopted, Ordinance No. 1223 would have the effect of repealing Ordinance No. 886 regarding licenses granted with respect to certain commuter parking lots within the Town of Harrison.

At the hearing on November 17, 2009, I appeared on behalf of Comprilli to offer comments in opposition to Ordinance No. 1223. Others offered comments, too. On Friday, December 20, 2009, you contacted me to advise that Ordinance No. 1223 has been withdrawn and, accordingly, there will be no hearing with respect to Ordinance No. 1223 on December 1, 2009 as previously scheduled. You further advised that at this point, Ordinance No. 1223 has been and remains withdrawn and thus is not on the agenda for any other meeting or hearing of the Harrison Town Council. This will confirm the foregoing.

While on the subject of Comprilli's parking lots, I am compelled to note that the Town of Harrison's agents and/or representatives have repeatedly entered upon Comprilli's property for the purpose of counting cars and to otherwise attempt to assess the status of my client's business. These visits are unauthorized and have served to needlessly harass and inconvenience my client. The purpose of this letter is to demand that the Town of Harrison (i) cease and desist its harassment of Comprilli in this manner; (ii) produce all documents, including but not limited to any field notes, assessments, studies and/or evaluations, relating or referring to any such inspections or visits with respect to Comprilli's parking lots; and (iii) specify the basis upon which such inspections and/or visits have occurred and at whose direction they have occurred. In any event, so that the record is clear, any further presence by the Town of Harrison's agents, employees or representatives on Comprilli's lots without the requisite authorization shall be deemed an unlawful trespass and shall be addressed accordingly.

In light of recent developments, we also question whether Comprilli has been singled out or, alternatively, whether the Town of Harrison's agents are similarly inspecting other parking lots and structures in Harrison. To ensure that Comprilli is not, in fact, being singled out, please

HERRICK, FRIMSTEIN LLP
A New York limited liability partnership including New York professional corporations

ONE GATEWAY CENTER, NEWARK, NJ 07102 • TEL 973.274.3000 • FAX 973.274.3500 • www.herrick.com

B

HERRICK

Paul J. Zarbetaki, Esq.

November 24, 2009

Page 2

produce all documents, including but not limited to any field notes, assessments, studies and/or evaluations, relating or referring to any inspections or visits with respect to other commuter parking lots and/or facilities (including any parking garage(s)) within the Town of Harrison, too. Insofar as the Town of Harrison is not conducting similar inspections with respect to other parking lots and/or facilities, it will be abundantly clear that Comprelli is the subject of disparate treatment under the law. We sincerely hope that this is not the case.

Finally, insofar as the Town of Harrison may intend to take any measures which may affect Comprelli's parking lots and/or the licenses that Comprelli has duly obtained to operate those lots, please provide due notice and an opportunity to be heard regarding any such measures. In addition to any legally-required notice that is to be accorded to Comprelli, kindly forward appropriate notification regarding any such measures to this office, too.

Thank you.

Very truly yours,


Paul H. Schafhauser

HERRICK

New York
Stamford
Princeton

PAUL L. SCHIMMELINK
PARTNER
Open Tel: 973.274.2000
Direct Mail: 973.274.0114
Email: pschim@herrick.com

December 9, 2009

BY FAX AND MAIL.

Paul J. Zarbetski, Esq.
318 Harrison Avenue
Harrison, New Jersey 07029

Re: Town of Harrison Ordinance No. 1223

Dear Mr. Zarbetski:

As you know, this firm represents M & J Comprelli Realty, LLC ("Comprelli"), which owns and/or operates certain commuter parking lots in the Town of Harrison. By letter dated November 24, 2009 (copy enclosed), I asked that the Town of Harrison produce various documents, including but not limited to any field notes, assessments, studies and/or evaluations, relating or referring to any such inspections or visits with respect to Comprelli's parking lots. I also asked that the Town of Harrison produce documents, including but not limited to any field notes, assessments, studies and/or evaluations, relating or referring to any inspections or visits with respect to other commuter parking lots and/or facilities (including any parking garage(s)) within the Town of Harrison, too.

To date, we have not received any response to those requests. Pursuant to the New Jersey Open Public Records Act, N.J.S.A. 47:1A-1 *et seq.*, the Open Public Meetings Act, N.J.S.A. 10:4-6 *et seq.*, the Freedom of Information Act and Privacy Act, 5 U.S.C. § 552, and other applicable common, statutory and regulatory law, we hereby respectfully reiterate our request for the disclosure of all such documents, including but not limited to all "government records" or "public records" as defined pursuant to N.J.S.A. 47:1A-1.1 and/or as common law. See Bergen County Imp. Authority v. North Jersey Media Group, Inc., 370 N.J. Super. 504, 509 (App. Div.), *cert. denied*, 182 N.J. 143 (2004) (affirming trial court's order requiring the disclosure of specified "public records" pursuant to statutory and common law, and holding in doing so that "the common law definition of 'public record' is broader than the statutory definition of 'government record' contained in N.J.S.A. 47:1A-1.1").

In addition to the previously-made requests, request is hereby made for all documents, including minutes, transcripts, notes or other materials, in the custody, possession or control of the Township of Harrison or its agents or officials relating or referring to (i) commuter parking lots; (ii) commuter parking licenses; or (iii) Comprelli or its parking lots. See Daily Journal v. Police Dept. of City of Vineland, 351 N.J. Super. 110, 120-22 (App. Div. 2002) ("The New Jersey Open Records Act 'applies to all records which are required by law to be made, maintained or kept on file' by a public body. . . . Public records available for inspection under the common law include any records made by public officers in the exercise of their functions. As such, they include

HERRICK ASSOCIATES, P.C.

One Gateway Center, Newark, NJ 07102 • Tel: 973.274.2000 • Fax: 973.274.2000 • www.herrick.com

C

HARRISON

Paul J. Zarbetski, Esq.
December 9, 2009
Page 2

almost every document recorded, generated, or produced by public officials, whether or not required by law to be made, maintained or kept on file." The foregoing request is to include all communications between the Township of Harrison and the Harrison Redevelopment Agency and/or the designated redeveloper regarding such matters. See Times of Trenton Publishing Corp. v. Lafayette Yard Community Development Corp., 183 N.J. 519, 529 (2005) (holding that the Open Public Records Act and the Open Public Meetings Act applied to records within the possession of a community development corporation that was assisting the City of Trenton in connection with the redevelopment of property).

Thank you for your anticipated prompt response to the foregoing requests.

Very truly yours,


Paul H. Schafhauser

HERRICK

New York
Newark
Princeton

PAUL H. SCHAFHAUSER
PARTNER
Direct: 973.274.2000
Direct Fax: 973.274.6414
Email: pschafhauser@herrick.com

December 23, 2009

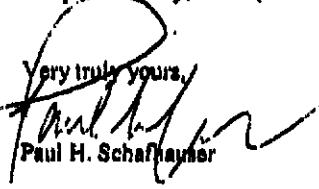
BY FAX AND MAIL

Paul J. Zarbetaki, Esq.
318 Harrison Avenue
Harrison, New Jersey 07029

Re: Town of Harrison Ordinance No. 1223

Dear Mr. Zarbetaki:

In response to recent correspondence from Isabel Simoes, I enclose an OPRA request form which I have executed on behalf of M & J Comprilli Realty, LLC ("Comprilli"). Best wishes for a very happy holiday season.

Very truly yours,

Paul H. Schafhauser

cc: Isabel Simoes (isimoes@townofharrison.com)

PHOTOGRAPHY
SERVICES

THE HERRICK GROUP, NEWARK, NJ 07102 • TEL: 973.274.2000 • FAX: 973.274.6414 • www.herrick.com

D

TOWN OF HARRISON

HARRISON TOWN HALL
318 HARRISON AVENUE
HARRISON, NEW JERSEY 07029

REQUEST FOR ACCESS TO GOVERNMENT RECORDS

Date Received: _____ Date of Response: _____

Name: Paul N. Schafhauser, Counsel for M&T Commercial Realty, LLC

Address: One Gateway Center, Newark, NJ 07102

Telephone (Day): 973-274-2098

INFORMATION REQUESTED (Please Be As Specific As Possible):

Please see attached letter dated December 9, 2009

A request for access to or for a copy of Government Records should be submitted on this form which has been adopted by the Municipal Clerk as the Custodian of Records. Some records will be immediately available during normal business hours. Some records will require time to compile and to make the copies requested, but will normally be available during normal business hours and within seven (7) business days. If any document or copy which has been requested is not a public record or cannot be provided within the seven (7) business days, you will be provided with a response with that information within the seven (7) business days. Some records requested have specific fees or other response times established by statute. There is no fee involved in simply inspecting a document during normal business hours. This request may be filed electronically. In general:

- Immediate access is ordinarily available for budgets, bills, vouchers, contracts, including collective negotiations agreements and individual employment contracts, and public employee salary and overtime information. Minutes of public meetings will be generally available immediately after the minutes have been approved.
- Records which are not readily available or which will require a search of records will be made available as soon as possible and the applicant will be provided with an interim report within seven (7) business days indicating the time which will be required to provide the records.
- Except as otherwise provided by law or regulation, the fee assessed for the duplication of a printed record shall be: first page to tenth page, \$0.75 per page; eleventh page to twentieth page, \$0.50 per page; all pages over twenty, \$0.25 per page; for a police accident report there is an additional fee when the request is not made in person of \$5.00 for the first 3 pages and \$1.00 for each additional page, as provided by N.J.S.A. 39:4-131.
- Where a request is for a copy in a format other than a photocopy, reasonable efforts will be made to provide the information in the format requested. The cost will be based on the costs of producing the format requested.
- Where a legal determination must be made as to whether records are "public records" as provided by law, the request will be reviewed by the Municipal Attorney.

The term "public records" generally includes those records determined to be public in accordance with N.J.S.A. 47:1A-1. The term does not include employee personnel files, police investigation records, public assistance files or other matters in which there is a right of privacy or confidentiality or inter-agency or intra-agency advisory, consultative, or deliberative memorial or other material which is specifically exempted by law.

The Applicant hereby acknowledges receipt of a copy of this form with the date on which the information is expected to be available and the estimated cost. The applicant hereby certifies that he or she has not been convicted of any indictable offense under the laws of this State, any other state or the United States and is not seeking government records containing personal information pertaining to the victim or the victim's family as provided by N.J.S.A. 47:1A-1, et seq.

(over)

This form, when signed by the municipal official, shall constitute a receipt for any deposit received.

The information requested will be ready on _____

Estimated number of pages _____

Estimated cost _____

Deposit (required where the anticipated cost of reproduction exceeds \$5.00) _____

Applicant _____

Date: 12/23/09

Municipal Official _____

Date: _____

PUBLIC RECORDS REQUEST RESPONSE

The document or documents listed below and requested by you are not being provided because the document or documents are not public records as provided by law, for the following reason(s):

You have a right to appeal the decision that the document or documents are not public records. You may take your appeal to the Government Records Council or to the New Jersey Superior Court, as provided by N.J.S.A. 47:1A-1, et seq. If your request has been denied, a statement of the procedures for the appeal will be attached to this notification.

Date _____

Municipal Official _____

ACKNOWLEDGEMENT

I hereby acknowledge that I have received the documents requested except for any documents specifically listed above in which a determination has been made that the documents will not be provided. If any documents have not been provided, I have received information on the procedure for any appeal of the determination.

Date _____

Applicant _____

HERRICK

New York
Newark
Princeton

PAUL H. SCHAFHAUSER
PARTNER
Direct Tel: 973.274.2000
Direct Fax: 973.274.6414
Email: pschafhauser@herrick.com

January 5, 2010

BY FAX AND MAIL

Paul J. Zarbetski, Esq.
318 Harrison Avenue
Harrison, New Jersey 07029

Re: Town of Harrison Ordinance No. 1223

Dear Mr. Zarbetski:

As you know, this firm represents M & J Comprelli Realty, LLC ("Comprelli"), which owns and/or operates certain commuter parking lots in the Town of Harrison.

By letter dated November 24, 2009 (copy enclosed), I asked that the Town of Harrison produce various documents, including but not limited to any field notes, assessments, studies and/or evaluations, relating or referring to any inspections or visits with respect to commuter parking lots and/or facilities within the Town of Harrison, including but not limited to Comprelli's parking lots. By letter dated December 9, 2009 (copy enclosed), I made various additional requests pursuant to the New Jersey Open Public Records Act, N.J.S.A. 47:1A-1 et seq. ("OPRA"), the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq. ("OPMA"), the Freedom of Information Act and Privacy Act, 5 U.S.C. § 552, and other applicable common, statutory and regulatory law. By letter dated December 23, 2009 (copy enclosed), I forwarded a completed OPRA request form on Comprelli's behalf, as your office had asked us to do.

To date, we have not received any documents responsive to these requests. Instead, we understand that this morning, Mayor Raymond McDonough contacted Joseph Supor III to threaten action with respect to Comprelli's parking lots if we did not withdraw these requests. More specifically, we understand that Mayor McDonough stated to Mr. Supor that unless Comprelli withdrew its above-mentioned requests for information, Mayor McDonough would direct you or other representatives of the Town to issue "violations" or take other adverse actions with respect to the parking lots in question. To say the least, we are appalled that a person entrusted with upholding the law and advancing the rights of the public would act in this manner.

As you know, "OPRA's purpose is 'to maximize public knowledge about public affairs in order to ensure an informed citizenry and to minimize the evils inherent in a secluded process.'" Mason v. City of Hoboken, 196 N.J. 51, 64 (2008) (quoting Asbury Park Press v. Ocean County Prosecutor's Office, 374 N.J. Super. 312, 329 (Law Div.2004)). To bring about that purpose, OPRA declares that "government records shall be readily accessible for inspection, copying, or examination by the citizens of this State, with certain exceptions, for the protection of the public

HERRICK, FINESTEIN LLP
A New York limited liability partnership including New York professional corporations

ONE GATEWAY CENTER, NEWARK, NJ 07102 • TEL 973.274.2000 • FAX 973.274.2500 • www.herrick.com

E

HERRICK

Paul J. Zarbetski, Esq.
January 5, 2010
Page 2

interest, and any limitations on the right of access ... shall be construed in favor of the public's right of access." N.J.S.A. 47:1A-1.

A "government record" includes "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." Id. "OPRA calls for the prompt disclosure of government records. Budgets, bills, vouchers, contracts, and public employee salary information are ordinarily to be provided immediately on request." Mason, 196 N.J. at 64-5 (citing N.J.S.A. 47:1A-5(e)). Records custodians must grant or deny access to other types of government records "as soon as possible, but not later than seven business days after receiving the request." N.J.S.A. 47:1A-5(l). Failure to respond within seven business days "shall be deemed a denial of the request." Id. If the record is in storage or archived, custodians must report that fact within seven business days and advise when the record will be available. Id.

Under OPRA, "[t]he public agency shall have the burden of proving that the denial of access is authorized by law. If it is determined that access has been improperly denied, the court or agency head shall order that access be allowed. A requester who prevails in any proceeding shall be entitled to a reasonable attorney's fee." N.J.S.A. 47:1A-6. Civil penalties may be imposed when "[a] public official, officer, employee or custodian . . . knowingly and willfully violates [OPRA]." N.J.S.A. 47:1A-11. If the request was "unreasonably denied . . . under the totality of the circumstances," a civil penalty of \$ 1,000 for an initial violation will be imposed, with increasing penalties for subsequent violations. Id. In addition, a public official, officer, employee or custodian against whom a penalty is imposed may be subject to disciplinary proceedings. Id.

Let there be any doubt in light of Mayor McDonough's telephone call today, Comprelli fully stands by its requests pursuant to OPRA, OPMA and other applicable law. In the event that the Town fails to comply, we will have no alternative but to seek appropriate lawful relief. In the event that the Town or its agents take action with respect to the parking lots in question in retaliation for Comprelli's exercise of its lawful rights, we will have no alternative but to seek appropriate redress for such action, too. We sincerely hope that any such measures will prove to be unnecessary.

Very truly yours,


Paul H. Schaffhauser

cc: Steven A. Caputo, Esq. (by PDF and mail)

HERRICK

New York
Newark
Princeton

PAUL H. SCHAFFHAUSER
PARTNER
Direct Tel: 973.274.2006
Direct Fax: 973.274.2414
Email: pscha@herrick.com

November 24, 2009

BY FAX AND MAIL

Paul J. Zarbetaki, Esq.
318 Harrison Avenue
Harrison, New Jersey 07029

Re: Town of Harrison Ordinance No. 1223

Dear Mr. Zarbetaki:

As you are aware, this firm represents M & J Comprelli Realty, LLC ("Comprelli"), which owns and/or operates certain commuter parking lots in the Town of Harrison. On November 17, 2009, the Harrison Town Council introduced Ordinance No. 1223. If adopted, Ordinance No. 1223 would have the effect of repealing Ordinance No. 886 regarding licenses granted with respect to certain commuter parking lots within the Town of Harrison.

At the hearing on November 17, 2009, I appeared on behalf of Comprelli to offer comments in opposition to Ordinance No. 1223. Others offered comments, too. On Friday, December 20, 2009, you contacted me to advise that Ordinance No. 1223 has been withdrawn and, accordingly, there will be no hearing with respect to Ordinance No. 1223 on December 1, 2009 as previously scheduled. You further advised that at this point, Ordinance No. 1223 has been and remains withdrawn and thus is not on the agenda for any other meeting or hearing of the Harrison Town Council. This will confirm the foregoing.

While on the subject of Comprelli's parking lots, I am compelled to note that the Town of Harrison's agents and/or representatives have repeatedly entered upon Comprelli's property for the purpose of counting cars and to otherwise attempt to assess the status of my client's business. These visits are unauthorized and have served to needlessly harass and inconvenience my client. The purpose of this letter is to demand that the Town of Harrison (i) cease and desist its harassment of Comprelli in this manner; (ii) produce all documents, including but not limited to any field notes, assessments, studies and/or evaluations, relating or referring to any such inspections or visits with respect to Comprelli's parking lots; and (iii) specify the basis upon which such inspections and/or visits have occurred and at whose direction they have occurred. In any event, so that the record is clear, any further presence by the Town of Harrison's agents, employees or representatives on Comprelli's lots without the requisite authorization shall be deemed an unlawful trespass and shall be addressed accordingly.

In light of recent developments, we also question whether Comprelli has been singled out or, alternatively, whether the Town of Harrison's agents are similarly inspecting other parking lots and structures in Harrison. To ensure that Comprelli is not, in fact, being singled out, please

HARRICK, FEINSTEIN LLP
A New York limited liability partnership
including New York professional corporation

ONE GATEWAY CENTER, NEWARK, NJ 07102 • TEL 973.274.2000 • FAX 973.274.2500 • www.herrick.com

HERRICK

Paul J. Zarbetaki, Esq.

November 24, 2009

Page 2

produce all documents, including but not limited to any field notes, assessments, studies and/or evaluations, relating or referring to any inspections or visits with respect to other commuter parking lots and/or facilities (including any parking garage(s)) within the Town of Harrison, too. Insofar as the Town of Harrison is not conducting similar inspections with respect to other parking lots and/or facilities, it will be abundantly clear that Comprelli is the subject of disparate treatment under the law. We sincerely hope that this is not the case.

Finally, insofar as the Town of Harrison may intend to take any measures which may affect Comprelli's parking lots and/or the licenses that Comprelli has duly obtained to operate those lots, please provide due notice and an opportunity to be heard regarding any such measures. In addition to any legally-required notice that is to be accorded to Comprelli, kindly forward appropriate notification regarding any such measures to this office, too.

Thank you.

Very truly yours,


Paul H. Schafhauser

HERRICK

NEW YORK
NEWARK
PRINCETON

PAUL J. MASTIANTHUNER
PARTNER
Direct Tel: 973.274.2000
Direct Fax: 973.274.8414
Email: paulmast@herrick.com

December 9, 2009

BY FAX AND MAIL

Paul J. Zarbetski, Esq.
318 Harrison Avenue
Harrison, New Jersey 07029

Re: Town of Harrison Ordinance No. 1223

Dear Mr. Zarbetski:

As you know, this firm represents M & J Comprelli Realty, LLC ("Comprelli"), which owns and/or operates certain commuter parking lots in the Town of Harrison. By letter dated November 24, 2009 (copy enclosed), I asked that the Town of Harrison produce various documents, including but not limited to any field notes, assessments, studies and/or evaluations, relating or referring to any such inspections or visits with respect to Comprelli's parking lots. I also asked that the Town of Harrison produce documents, including but not limited to any field notes, assessments, studies and/or evaluations, relating or referring to any inspections or visits with respect to other commuter parking lots and/or facilities (including any parking garage(s)) within the Town of Harrison, too.

To date, we have not received any response to these requests. Pursuant to the New Jersey Open Public Records Act, N.J.S.A. 47:1A-1 et seq., the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq., the Freedom of Information Act and Privacy Act, 5 U.S.C. § 552, and other applicable common, statutory and regulatory law, we hereby respectfully reiterate our request for the disclosure of all such documents, including but not limited to all "government records" or "public records" as defined pursuant to N.J.S.A. 47:1A-1.1 and/or at common law. See Bergen County Imp. Authority v. North Jersey Media Group, Inc., 370 N.J. Super. 504, 509 (App. Div.), certif. denied, 182 N.J. 143 (2004) (affirming trial court's order requiring the disclosure of specified "public records" pursuant to statutory and common law, and holding in doing so that "the common law definition of 'public record' is broader than the statutory definition of 'government record' contained in N.J.S.A. 47:1A-1.1").

In addition to the previously-made requests, request is hereby made for all documents, including minutes, transcripts, notes or other materials, in the custody, possession or control of the Township of Harrison or its agents or officials relating or referring to (i) commuter parking lots; (ii) commuter parking licenses; or (iii) Comprelli or its parking lots. See Daily Journal v. Police Dept. of City of Vineland, 351 N.J. Super. 110, 120-22 (App. Div. 2002) ("The New Jersey Open Records Act "applies to 'all records which are required by law to be made, maintained or kept on file' by a public body Public records available for inspection under the common law include any records made by public officers in the exercise of their functions. As such, they include

HERRICK PARTNER LLP

HERRICK

Paul J. Zarbetski, Esq.
December 9, 2009
Page 2

almost every document recorded, generated, or produced by public officials, whether or not required by law to be made, maintained or kept on file."'). The foregoing request is to include all communications between the Township of Harrison and the Harrison Redevelopment Agency and/or the designated redeveloper regarding such matters. See Times of Trenton Publishing Corp. v. Lafayette Yard Community Development Corp., 183 N.J. 519, 529 (2005) (holding that the Open Public Records Act and the Open Public Meetings Act applied to records within the possession of a an community development corporation that was assisting the City of Trenton in connection with the redevelopment of property).

Thank you for your anticipated prompt response to this foregoing request.

Very truly yours,


Paul H. Schaffner

HERRICK

New York
Newark
Princeton

PAUL H. SCHAFFHAUSER
PARTNER
Direct Tel: 973.274.2000
Direct Fax: 973.274.6414
Email: pscha@herrick.com

December 23, 2009

BY FAX AND MAIL

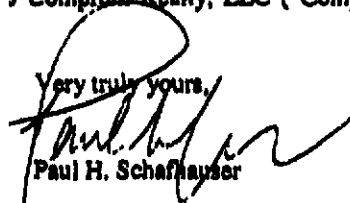
Paul J. Zarbetski, Esq.
318 Harrison Avenue
Harrison, New Jersey 07029

Re: Town of Harrison Ordinance No. 1223

Dear Mr. Zarbetski:

In response to recent correspondence from Isabel Simoes, I enclose an OPRA request form which I have executed on behalf of M & J Compralli Realty, LLC ("Compralli"). Best wishes for a very happy holiday season.

Very truly yours,



Paul H. Schaffhauser

cc: Isabel Simoes (isimoes@townofharrison.com)

HERRICK, PRINCETON LLP
A LIMITED LIABILITY
PARTNERSHIP
NEW YORK, NEW JERSEY
AND PENNSYLVANIA

ONE GATEWAY CENTER, NEWARK, NJ 07102 • TEL 973.274.2000 • FAX 973.274.2100 • www.herrick.com

TOWN OF HARRISON

HARRISON TOWN HALL
318 HARRISON AVENUE
HARRISON, NEW JERSEY 07029

REQUEST FOR ACCESS TO GOVERNMENT RECORDS

Date Received: _____ Date of Response: _____

Name: Paul H. Schafhauser, Counsel for M&J Comorelli Realty, LLC

Address: One Gateway Center, Newark, NJ 07102

Telephone (Day): 973-274-2088

INFORMATION REQUESTED (Please Be As Specific As Possible):

Please see attached letter dated December 9, 2009

A request for access to or for a copy of Government Records should be submitted on this form which has been adopted by the Municipal Clerk as the Custodian of Records. Some records will be immediately available during normal business hours. Some records will require time to compile and to make the copies requested, but will normally be available during normal business hours and within seven (7) business days. If any document or copy which has been requested is not a public record or cannot be provided within the seven (7) business days, you will be provided with a response with that information within the seven (7) business days. Some records requested have specific fees or other response times established by statute. There is no fee involved in simply inspecting a document during normal business hours. This request may be filed electronically. In general:

- Immediate access is ordinarily available for budgets, bills, vouchers, contracts, including collective negotiations agreements and individual employment contracts, and public employee salary and overtime information. Minutes of public meetings will be generally available immediately after the minutes have been approved.
- Records which are not readily available or which will require a search of records will be made available as soon as possible and the applicant will be provided with an interim report within seven (7) business days indicating the time which will be required to provide the records.
- Except as otherwise provided by law or regulation, the fee assessed for the duplication of a printed record shall be: first page to tenth page, \$0.75 per page; eleventh page to twentieth page, \$0.50 per page; all pages over twenty, \$0.25 per page; for a police accident report there is an additional fee when the request is not made in person of \$3.00 for the first 3 pages and \$1.00 for each additional page, as provided by N.J.S.A. 39:4-131.
- Where a request is for a copy in a format other than a photocopy, reasonable efforts will be made to provide the information in the format requested. The cost will be based on the costs of producing the format requested.
- Where a legal determination must be made as to whether records are "public records" as provided by law, the request will be reviewed by the Municipal Attorney.

The term "public records" generally includes those records determined to be public in accordance with N.J.S.A. 47:1A-1. The term does not include employee personnel files, police investigation records, public assistance files or other matters in which there is a right of privacy or confidentiality or inter-agency or intra-agency advisory, consultative, or deliberative material or other material which is specifically exempted by law.

The Applicant hereby acknowledges receipt of a copy of this form with the date on which the information is expected to be available and the estimated cost. The applicant hereby certifies that he or she has not been convicted of any indictable offense under the laws of this State, any other state or the United States and is not seeking government records containing personal information pertaining the victim or the victim's family as provided by N.J.S.A. 47:1A-1, et seq.

(over)

This form, when signed by the municipal official, shall constitute a receipt for any deposit received.

The information requested will be ready on _____

Estimated number of pages _____

Estimated cost _____

Deposit (required where the anticipated cost of reproduction exceeds \$5.00) _____

Applicant _____

Date: 12/23/09

Municipal Official _____

Date: _____

PUBLIC RECORDS REQUEST RESPONSE

The document or documents listed below and requested by you are not being provided because the document or documents are not public records as provided by law, for the following reason(s):

You have a right to appeal the decision that the document or documents are not public records. You may take your appeal to the Government Records Council or to the New Jersey Superior Court, as provided by N.J.S.A. 47:1A-1, et seq. If your request has been denied, a statement of the procedures for the appeal will be attached to this notification.

Date _____

Municipal Official _____

ACKNOWLEDGEMENT

I hereby acknowledge that I have received the documents requested except for any documents specifically listed above on which a determination has been made that the documents will not be provided. If any documents have not been provided, I have received information on the procedures for any appeal of the determination.

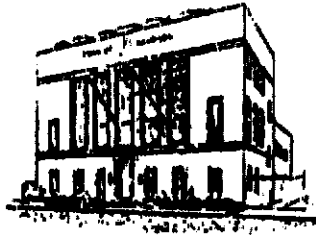
Date _____

Applicant _____



PAUL J. ZARBETSKI, ESQ.
TOWN CLERK
TOWN ATTORNEY

TOWN OF HARRISON



HARRISON, NEW JERSEY

318 HARRISON AVENUE
HARRISON, NEW JERSEY 07029
TEL.: (973) 266-8488
FAX: (973) 494-4876

January 5, 2010

Via e-mail pschafhauser@herrick.com

Peter H. Schafhauser, Esq.
Herrick, Feinstein LLP
One Gateway Center
Newark, New Jersey 07102

Re: OPRA Request Dated December 23, 2009

Dear Mr. Schafhauser:

In response to the aforementioned OPRA request, the Town of Harrison hereby responds as follows.

As to your request for field notes, assessments, studies and/or evaluations, relating or referring to any inspections or visits with respect to Comprelli's parking lots and any other parking lots, please see the enclosed documents. As to the remainder of your request, namely, "all documents, including minutes, transcripts, note or other materials, in the custody, possession or control of the Township of Harrison or its agents or officials relating or referring to (i) commuter parking lots; (ii) commuter parking licenses; or (iii) Comprelli or its parking lots... [and] all communications between the Township of Harrison and the Harrison Redevelopment Agency and/or the designator redeveloper regarding such matters," same is overly broad. See MAG Entertainment, LLC v. Division of Alcoholic Beverage Control, 375 N.J. Super. 543 (App. Div. 2005), Bent v. Stafford Police Department, 381 N.J. Super. 30 (App. Div. 2005), New Jersey Builders Association v. New Jersey Council on Affordable Housing, 390 N.J. Super. 166 (App. Div. 2007), and Schuler v. Borough of Bloombury, GRC Complaint No. 2007-151 (February 2009). In this regard, I am enclosing pages 16 and 17 of The New Jersey OPRA Handbook for Records Custodians for guidance. If you wish to clarify the documents requested, I will promptly provide same.

F

Peter H. Schafhauser, Esq.
January 5, 2010
Page 2

Thank you for your attention to this matter.

Very truly yours,


Paul J. Zarbetski
Town Clerk/Attorney

DATE	Path	CARS	Sig.
11/4/09		850	Brent Campbell
11/5/09		830	Brent Campbell
11/6/09		870	Brent Campbell
11/9/09		820	Brian Rantant
11/10/09		830	Brian Rantant
11/12/09		830	Brian Rantant
11/13/09		810	Brian Rantant
11/17		850	Brian Rantant
11/18		835	Brian Rantant
11-19		800	Brian Rantant
11-20		815	Brian Rantant
11-23		790	Brian Rantant
11-24		810	Brian Rantant
11-30		825	Brian Rantant
12-1		830	Brian Rantant
12-2		815	Brian Rantant

Part 4

12/3	940	BR	
12/4	835	BR	
12/7	815	Ben Reber	
12/8	837	Ben Reber	
12/9	825	Ben Reber	
12/10	815	Ben Reber	
12/11	900	Ben Reber	
12/14	805	Ben Reber	
12/15	910	Ben Reber	
12/16	810	Ben Reber	
12/17	820	Ben Reber	
12/18	800	Ben Reber	
12/21	756	Ben Reber	
12/22	775	Ben Reber	
12/23	760	Ben Reber	
12/28	740	Ben Reber	
12/29	780	Ben Reber	
12/30	750	Ben Reber	
01/4	815	Ben Reber	

S 2nd

11/9 7020 Rat Cull

11/10 980 Rust Cull

11/12 960 Rust Cull

11/14 780 Rust Cull

11/17 825 Brian Rakes
PART 14

11/16 850 Rust Cull

~~11/17 825 Rust Cull~~

S 2nd

11/18	815	Brain Reekat
11/14	790	Brain Reekat
11/20	775	Brain Reekat
11/23	785	Brain Reekat
11/24	750	1 Brain Reekat
11/30	770	Brain Reekat
12/1	790	Brain Reekat
12/2	810	
12/3	825	Brain Reekat
12/4	830	Brain Reekat
12/7	825	Brain Reekat
12/8	840	Brain Reekat
12/9	795	Brain Reekat
12/10	815	Brain Reekat
12/11	805	Brain Reekat
12/14	740	Brain Reekat
12/15	755	Brain Reekat
12/16	700	Brain Reekat
12/17	785	Brain Reekat
12/18	795	Brain Reekat

12/21 725

12/22 725

12/23 740

Brown Rubber
Brown Rubber
Brown Rubber

12/28 715

12/29 710

12/30 790

Brown Rubber
Brown Rubber
Brown Rubber

1/4 765

Brown Rubber

TOWN OF HARRISON

HARRISON TOWN HALL
318 HARRISON AVENUE
HARRISON, NEW JERSEY 07029

REQUEST FOR ACCESS TO GOVERNMENT RECORDS

Date Received: _____ Date of Response: _____
Name: Paul H. Schafer, Counsel for M&J Comoralli Realty, LLC
Address: One Gateway Center, Newark, NJ 07102
Telephone (Day): 973-274-2098

INFORMATION REQUESTED (Please Be As Specific As Possible):

Please see attached letter dated December 9, 2009

A request for access to or for a copy of Government Records should be submitted on this form which has been adopted by the Municipal Clerk as the Custodian of Records. Some records will be immediately available during normal business hours. Some records will require time to compile and to make the copies requested, but will normally be available during normal business hours and within seven (7) business days. If any document or copy which has been requested is not a public record or cannot be provided within the seven (7) business days, you will be provided with a response with that information within the seven (7) business days. Some records requested have specific fees or other response times established by statute. There is no fee involved in simply inspecting a document during normal business hours. This request may be filed electronically. In general:

- Immediate access is ordinarily available for budgets, bills, vouchers, contracts, including collective negotiations agreements and individual employment contracts, and public employee salary and overtime information. Minutes of public meetings will be generally available immediately after the minutes have been approved.
- Records which are not readily available or which will require a search of records will be made available as soon as possible and the applicant will be provided with an interim report within seven (7) business days indicating the time which will be required to provide the records.
- Except as otherwise provided by law or regulation, the fee assessed for the duplication of a printed record shall be: first page to tenth page, \$0.75 per page; eleventh page to twentieth page, \$0.50 per page; all pages over twenty, \$0.25 per page; for a police accident report there is an additional fee when the request is not made in person of \$5.00 for the first 3 pages and \$1.00 for each additional page, as provided by N.J.S.A. 39:4-151.
- Where a request is for a copy in a format other than a photocopy, reasonable efforts will be made to provide the information in the format requested. The cost will be based on the costs of producing the format requested.
- Where a legal determination must be made as to whether records are "public records" as provided by law, the request will be reviewed by the Municipal Attorney.

The term "public records" generally includes those records determined to be public in accordance with N.J.S.A. 47:1A-1. The term does not include employee personnel files, police investigation records, public assistance files or other matters in which there is a right of privacy or confidentiality or inter-agency or intra-agency advisory, consultative, or deliberative material or other material which is specifically exempted by law.

The Applicant hereby acknowledges receipt of a copy of this form with the date on which the information is expected to be available and the estimated cost. The applicant hereby certifies that he or she has not been convicted of any indictable offense under the laws of this State, any other state or the United States and is not seeking government records containing personal information pertaining to the victim or the victim's family as provided by N.J.S.A. 47:1A-1, et seq.

(over)

This form, when signed by the municipal official, shall constitute a receipt for any deposit received.

The information requested will be ready on _____

Estimated number of pages _____

Estimated cost _____

Deposit
[required where the anticipated cost of reproduction exceeds \$5.00] _____

Applicant _____

Date: 12/23/09

Municipal Official

Date: _____

PUBLIC RECORDS REQUEST RESPONSE

The document or documents listed below and requested by you are not being provided because the document or documents are not public records as provided by law, for the following reason(s):

You have a right to appeal the decision that the document or documents are not public records. You may take your appeal to the Government Records Council or to the New Jersey Superior Court, as provided by N.J.S.A. 47:1A-1, et seq. If your request has been denied, a statement of the procedures for the appeal will be attached to this notification.

Date

Municipal Official

ACKNOWLEDGEMENT

I hereby acknowledge that I have received the documents requested except for any documents specifically listed above on which a determination has been made that the documents will not be provided. If any documents have not been provided, I have received information on the procedures for any appeal of the determination.

Date

Applicant

HERRICK

New York
Newark
Fairfield

PAUL H. SCHAFFNER
PARTNER
Direct Tel: 973.274.3000
Direct Fax: 973.274.6414
Email: pscha@herrick.com

December 23, 2009

BY FAX AND MAIL

Paul J. Zarbetaki, Esq.
318 Harrison Avenue
Harrison, New Jersey 07029

DEC 28 2009

TOWN OF HARRISON
TOWNSHIP CLERK

Re: Town of Harrison Ordinance No. 1223

Dear Mr. Zarbetaki:

In response to recent correspondence from Isabel Simoes, I enclose an OPRA request form which I have executed on behalf of M & J Compralli Realty, LLC ("Compralli"). Best wishes for a very happy holiday season.

Very truly yours,


Paul H. Schaffner

cc: Isabel Simoes (isimoes@townofharrison.com)

HERRICK, FENSTERMAKER LLP
A New York limited liability partnership
including New York professional corporation

ONE GARFIELD CENTER, NEWARK, NJ 07102 • TEL 973.274.3000 • FAX 973.274.3100 • www.herrick.com



The New Jersey Open Public Records Act Handbook for Records Custodians



New Jersey Government Records Council

101 S. Broad Street
P.O. Box 819
Trenton, NJ 08625-0819

Office: (609) 292-6830

Fax: (609) 633-6337

Toll-free Information Line: (866) 850-0511

E-Mail: grc@dca.state.nj.us
Website: www.state.nj.us/grc

Example: Caggiano v. NJ Dept of Law & Public Safety, Div of Consumer Affairs, GRC Complaint No. 2007-69 (September 2007). The Custodian certified that an extended review of records as contemplated by the Complainant (for approximately a week) would substantially disrupt agency operations by requiring the extended attendance of a Division of Consumer Affairs employee and a NJ State Police Officer at the Complainant's inspection of the requested records. The Council stated that:

"[t]he Custodian has reasonably offered to provide the Complainant with copies of all the records responsive upon payment of the statutory copying rates, which the Complainant has declined. The Custodian has also reasonably offered the Complainant two (2) hours to inspect the seven hundred forty-five (745) pages responsive to the Complainant's request, of which the Custodian states a substantial portion are records which the Complainant himself submitted to the Division. Additionally, the Custodian has reasonably offered to accommodate the Complainant's request by charging a special service charge for the hourly rate of a Division of Consumer Affairs employee to monitor the Complainant's inspection of the requested records in the event that said inspection exceeds two (2) hours. Further, the Custodian has reasonably offered to copy the remaining records at the OPRA copying costs in the event the Complainant exceeds a reasonable amount of time for the record inspection, which the Custodian states is one (1) business day. However, the Complainant objects to paying any inspection fees, as well as a two (2) hour inspection time limit."

The Council held that "because the Custodian has made numerous attempts to reasonably accommodate the Complainant's request but has been rejected by the Complainant, the Custodian has not unlawfully denied access to the requested record under N.J.S.A. 47:1A-5.c. and N.J.S.A. 47:1A-5.g.

Disclaimer: The Borough of Stanhope is a small municipality. As such, a request that would substantially disrupt the operations of the Borough might not be considered a substantial disruption of operations for another public agency.

What if the request is overly broad or unclear?

If a request does not name specifically identifiable records or is overly broad, a custodian may deny access pursuant to the following court decisions: MAG Entertainment, LLC v. Division of Alcoholic Beverage Control, 375 N.J. Super. 534 (App. Div. 2005), Bent v. Stafford Police Department, 381 N.J. Super. 30 (App. Div. 2005), New Jersey Builders Association v. New Jersey Council on Affordable Housing, 390 N.J. Super. 166 (App. Div. 2007), and Schuler v. Borough of Bloombury, GRC Complaint No. 2007-151 (February 2009).

A custodian may also seek clarification of a broad or unclear request. The custodian's request for clarification must be in writing, within seven (7) business days of receipt of the request. If a custodian seeks clarification of an OPRA request, the response time clock stops until the requestor provides a response to the custodian.

Example of an overly broad request: "Any and all records related to the construction of the new high school."

Example of a valid request: "Any and all e-mails between Jane Doe and John Smith regarding the construction of the new high school from January 1, 2009 to February 28, 2009."

A custodian is obligated to *search* her files to *find* the identifiable government records listed in the Complainant's OPRA request. A custodian is not required to *research* her files to figure out which records, if any, might be responsive to a broad and unclear OPRA request.



How much can I charge to provide records?

The basic per page copy fees are the actual cost of providing said copies, not to exceed: \$0.75 for the first 10 pages, \$0.50 for pages 11-20, \$0.25 each page over 20. N.J.S.A. 47:1A-5.b.

Pursuant to Windish v. Mt. Arlington BOE, (Unpublished/App.Div. 2007), OPRA rates are okay for small municipalities.

If a municipality's actual costs exceed the OPRA rates, the municipality must establish such fees in advance by ordinance. N.J.S.A. 47:1A-5.c. However, no other municipal ordinance is relevant to an OPRA request regarding fees (i.e. special service charges may not be established in advance by municipal ordinance).

Actual cost includes the cost of materials and supplies, NOT labor or overhead expenses. N.J.S.A. 47:1A-5.b.

In Getts v. Mercer County Clerk's Office - Law Division Mercer County (May 2009), the court determined that custodians must charge actual cost for paper copies. This decision is noteworthy, but not yet universally applicable.

Deposits and Prepayments

OPRA permits the custodian to require a deposit or prepayment of fees for requests received from anonymous requestors. N.J.S.A. 47:1A-5.f. An agency may require a deposit or prepayment of fees when a request is voluminous, unusual or requires the use of an outside vendor.

OPRA requires the records request form to state whether prepayment of the fees or a deposit is required. The custodian should inform the requestor of the deposit or prepayment required and when the documents will be released upon payment.

When can I assess a special service charge?

In certain circumstances, an agency may collect a special service charge in addition to the actual cost of duplicating records embodied in printed form. Where the nature, format, manner of collection, or volume of records to be inspected or copied is such that:

- The record cannot be reproduced using ordinary equipment, in ordinary business size (e.g. a map or plat); or
- Complying with the request involves an extraordinary expenditure of time and effort,

HERRICK

NEW YORK
NEWARK
PRINCETON

PAUL H. SCHAFHAUSER
PARTNER
Direct Tel: 973.274.2098
Direct Fax: 973.274.6114
Email: paulschaf@herrick.com

January 7, 2010

BY FAX AND MAIL

Paul J. Zarbetaki, Esq.
318 Harrison Avenue
Harrison, New Jersey 07029

Re: Town of Harrison Ordinance No. 1223

Dear Mr. Zarbetaki:

I write in response to your letter dated January 5, 2010, by which you asserted, among other things, that various OPRA requests propounded on behalf of M & J Comprilli Realty, LLC ("Comprilli") are "overly broad," but added that you would promptly provide documents if we "wish to clarify the documents requested." Therefore, without waiver of or limitation of Comprilli's previously-stated requests, please deem those requests to be amended and/or clarified to include the following requests:

1. All permits, approvals, licenses and/or variances issued with respect to Comprilli and/or Joseph Comprilli, or with respect to any parking lots and/or facilities owned and/or operated by them.
2. All applications for permits, approvals, licenses and/or variances with respect to Comprilli and/or Joseph Comprilli, or with respect to any parking lots and/or facilities owned and/or operated by them.
3. All certificates of occupancy issued with respect to Comprilli and/or Joseph Comprilli, or with respect to any parking lots and/or facilities owned and/or operated by them.
4. All notices of violation, notices to cure, citations, violations, summonses or complaints issued with respect to Comprilli and/or Joseph Comprilli, or with respect to any parking lots and/or facilities owned and/or operated by them.
5. All appraisals, investigations or studies with respect to any parking lots and/or facilities owned and/or operated by Comprilli.
6. All records regarding zoning variances and restrictions, proposed zoning changes or intentions to exercise eminent domain with respect to Comprilli and/or Joseph Comprilli, or with respect to any parking lots and/or facilities owned and/or operated by them.

HERRICK, FINESTEIN LLP
A New York limited liability partnership
including New York professional corporation

ONE GATEWAY CENTER, NEWARK, NJ 07102 • TEL 973.274.2000 • FAX 973.274.2500 • www.herrick.com

G

HERRICK

Paul J. Zarbetaki, Esq.
January 7, 2010
Page 2

7. All permits, licenses, approvals, determinations and other qualifications concerning any parking lots and/or facilities owned and/or operated by Comprelli.
8. All notifications, notices of violations and reports not already referenced in connection with the above requests concerning any parking lots and/or facilities owned and/or operated by Comprelli, including but not limited to documents pertaining to CERCLA, SARA, Toxic Substances Control Act, RCRA, Solid Waste Disposal Act, Clean Water Act, Clean Air Act.
9. All documents (including but not limited to field notes) concerning any studies, visits, inspections and/or observations of parking lots and/or facilities owned and/or operated by Comprelli.
10. Any agreements between Comprelli and/or Joseph Comprelli and the Town of Harrison.
11. All documents concerning commuter parking taxes paid by Comprelli.
12. All records referring to Comprelli and/or Joseph Comprelli, or to any parking lots and/or facilities owned and/or operated by them.
13. All permits, approvals, licenses and/or variances issued with respect to J. Supor & Son Trucking & Rigging Co., Inc. and/or Joseph Supor III (collectively, "Supor"), or with respect to any parking lots and/or facilities owned and/or operated by them.
14. All applications for permits, approvals, licenses and/or variances with respect to Supor, or with respect to any parking lots and/or facilities owned and/or operated by them.
15. All certificates of occupancy issued with respect to Supor, or with respect to any parking lots and/or facilities owned and/or operated by them.
16. All notices of violation, notices to cure, citations, violations, summonses or complaints issued with respect to Supor, or with respect to any parking lots and/or facilities owned and/or operated by them.
17. All appraisals, investigations or studies with respect to any parking lots and/or facilities owned and/or operated by Supor.
18. All records regarding zoning variances and restrictions, proposed zoning changes or intentions to exercise eminent domain with respect to Supor, or with respect to

HERRICK

Paul J. Zarbetaki, Esq.
January 7, 2010
Page 3

- any parking lots and/or facilities owned and/or operated by them.
19. All permits, licenses, approvals, determinations and other qualifications concerning any parking lots and/or facilities owned and/or operated by Supor.
 20. All notifications, notices of violations and reports not already referenced in connection with the above requests concerning any parking lots and/or facilities owned and/or operated by Supor, including but not limited to documents pertaining to CERCLA, SARA, Toxic Substances Control Act, RCRA, Solid Waste Disposal Act, Clean Water Act, Clean Air Act.
 21. All documents (including but not limited to field notes) concerning any studies, visits, inspections and/or observations of parking lots and/or facilities owned and/or operated by Supor.
 22. Any agreements between Supor and the Town of Harrison.
 23. All records referring to Supor, or to any parking lots and/or facilities owned and/or operated by them.
 24. All documents concerning commuter parking taxes paid by Supor.
 25. All records referring to Supor and/or to any parking lots and/or facilities owned and/or operated by them.
 26. All permits, approvals, licenses and/or variances issued with respect to Hudson County Improvement Authority and/or its agents or affiliates (collectively, "HCIA"), or with respect to any parking lots and/or facilities owned and/or operated by them.
 27. All applications for permits, approvals, licenses and/or variances with respect to HCIA, or with respect to any parking lots and/or facilities owned and/or operated by them.
 28. All certificates of occupancy issued with respect to HCIA, or with respect to any parking lots and/or facilities owned and/or operated by them.
 29. All notices of violation, notices to cure, citations, violations, summonses or complaints issued with respect to HCIA, or with respect to any parking lots and/or facilities owned and/or operated by them.
 30. All appraisals, investigations or studies with respect to any parking lots and/or

HARRISON

Paul J. Zarbetski, Esq.
January 7, 2010
Page 4

facilities owned and/or operated by HCIA.

31. All records regarding zoning variances and restrictions, proposed zoning changes or intentions to exercise eminent domain with respect to HCIA, or with respect to any parking lots and/or facilities owned and/or operated by them.
32. All permits, licenses, approvals, determinations and other qualifications concerning any parking lots and/or facilities owned and/or operated by HCIA.
33. All notifications, notices of violations and reports not already referenced in connection with the above requests concerning any parking lots and/or facilities owned and/or operated by HCIA, including but not limited to documents pertaining to CERCLA, SARA, Toxic Substances Control Act, RCRA, Solid Waste Disposal Act, Clean Water Act, Clean Air Act.
34. All documents (including but not limited to field notes) concerning any studies, visits, inspections and/or observations of parking lots and/or facilities owned and/or operated by HCIA.
35. Any agreements between HCIA and the Town of Harrison.
36. All documents concerning commuter parking taxes paid by HCIA.
37. All records referring to HCIA, or to any parking lots and/or facilities owned and/or operated by them.
38. All permits, approvals, licenses and/or variances issued with respect to Little Man Parking and/or its agents or affiliates (collectively, "Little Man"), or with respect to any parking lots and/or facilities owned and/or operated by them.
39. All applications for permits, approvals, licenses and/or variances with respect to Little Man, or with respect to any parking lots and/or facilities owned and/or operated by them.
40. All certificates of occupancy issued with respect to Little Man, or with respect to any parking lots and/or facilities owned and/or operated by them.
41. All notices of violation, notices to cure, citations, violations, summonses or complaints issued with respect to Little Man, or with respect to any parking lots and/or facilities owned and/or operated by them.
42. All appraisals, investigations or studies with respect to any parking lots and/or

HERRICK

Paul J. Zarbetski, Esq.
January 7, 2010
Page 5

facilities owned and/or operated by Little Man.

43. All records regarding zoning variances and restrictions, proposed zoning changes or intentions to exercise eminent domain with respect to Little Man, or with respect to any parking lots and/or facilities owned and/or operated by them.
44. All permits, licenses, approvals, determinations and other qualifications concerning any parking lots and/or facilities owned and/or operated by Little Man.
45. All notifications, notices of violations and reports not already referenced in connection with the above requests concerning any parking lots and/or facilities owned and/or operated by Little Man, including but not limited to documents pertaining to CERCLA, SARA, Toxic Substances Control Act, RCRA, Solid Waste Disposal Act, Clean Water Act, Clean Air Act.
46. All documents (including but not limited to field notes) concerning any studies, visits, inspections and/or observations of parking lots and/or facilities owned and/or operated by Little Man.
47. Any agreements between Little Man and the Town of Harrison.
48. All documents concerning commuter parking taxes paid by Little Man.
49. All records referring to Little Man, or to any parking lots and/or facilities owned and/or operated by them.
50. All permits, approvals, licenses and/or variances issued with respect to Day Care Parking Center and/or its agents or affiliates (collectively, "Day Care"), or with respect to any parking lots and/or facilities owned and/or operated by them.
51. All applications for permits, approvals, licenses and/or variances with respect to Day Care, or with respect to any parking lots and/or facilities owned and/or operated by them.
52. All certificates of occupancy issued with respect to Day Care, or with respect to any parking lots and/or facilities owned and/or operated by them.
53. All notices of violation, notices to cure, citations, violations, summonses or complaints issued with respect to Day Care, or with respect to any parking lots and/or facilities owned and/or operated by them.

HERRICK

Paul J. Zarbetaki, Esq.
January 7, 2010
Page 6

54. All appraisals, investigations or studies with respect to any parking lots and/or facilities owned and/or operated by Day Care.
55. All records regarding zoning variances and restrictions, proposed zoning changes or intentions to exercise eminent domain with respect to Day Care, or with respect to any parking lots and/or facilities owned and/or operated by them.
56. All permits, licenses, approvals, determinations and other qualifications concerning any parking lots and/or facilities owned and/or operated by Day Care.
57. All notifications, notices of violations and reports not already referenced in connection with the above requests concerning any parking lots and/or facilities owned and/or operated by Day Care, including but not limited to documents pertaining to CERCLA, SARA, Toxic Substances Control Act, RCRA, Solid Waste Disposal Act, Clean Water Act, Clean Air Act.
58. All documents (including but not limited to field notes) concerning any studies, visits, inspections and/or observations of parking lots and/or facilities owned and/or operated by Day Care.
59. Any agreements between Day Care and the Town of Harrison.
60. All documents concerning commuter parking taxes paid by Day Care.
61. All records referring to Day Care, or to any parking lots and/or facilities owned and/or operated by them.
62. All agreements, understandings or other records concerning any limitation on surface parking lots in the Township of Harrison.
63. All agreements, understandings or other records concerning any limitation on surface parking lots in the Township of Harrison.
64. All agreements, understandings or other records between the Town of Harrison and HCIA concerning commuter parking lots and/or facilities within the Town of Harrison.
65. All agreements, understandings or other records between the Town of Harrison and Advance Realty Group concerning commuter parking lots and/or facilities within the Town of Harrison.
66. All agreements, understandings or other records between the Town of Harrison

HERRICK

Paul J. Zarbetski, Esq.
January 7, 2010
Page 7

- and Harrison Redevelopment Agency ("HRA") concerning commuter parking lots and/or facilities within the Town of Harrison.
67. All agreements, understandings or other records between the Town of Harrison and Red Bull and/or the New York Red Bulls (collectively, "Red Bull") concerning commuter parking lots and/or facilities within the Town of Harrison.
 68. All documents prepared and/or executed by Joseph Condari ("Condari") concerning commuter parking lots and/or facilities within the Town of Harrison.
 69. All documents prepared and/or executed by Rocco Rossomanno ("Rossomanno") concerning commuter parking lots and/or facilities within the Town of Harrison.
 70. All documents prepared and/or executed by Mayor Raymond McDonough ("McDonough") concerning commuter parking lots and/or facilities within the Town of Harrison.
 71. All documents exchanged and/or transmitted between the Town of Harrison and HRA on or after January 1, 2007 concerning commuter parking lots and/or facilities within the Town of Harrison.
 72. All documents exchanged and/or transmitted between the Town of Harrison and HCIA on or after January 1, 2007 concerning commuter parking lots and/or facilities within the Town of Harrison.
 73. All documents exchanged and/or transmitted between the Town of Harrison and Red Bull on or after January 1, 2007 concerning commuter parking lots and/or facilities within the Town of Harrison.
 74. All documents relating to or concerning fees or prices to be paid or fixed with respect to the commuter parking deck owned and/or operated by HCIA within the Town of Harrison.
 75. All documents exchanged and/or transmitted between McDonough and HCIA, Advance, Red Bull and/or HRA concerning commuter parking lots and/or facilities within the Town of Harrison.
 76. All documents prepared and/or executed by Brian Renkart ("Renkart") concerning commuter parking lots and/or facilities within the Town of Harrison.
 77. All documents prepared and/or executed by Kurt Campbell ("Campbell") concerning commuter parking lots and/or facilities within the Town of Harrison.

HERRICK

Paul J. Zarbetski, Esq.
January 7, 2010
Page 8

78. All documents relating or referring to requests that Renkart and/or Campbell inspect Comprelli's lots.
79. All authorizations for Renkart and/or Campbell to inspect Comprelli's lots.
80. All documents concerning Ordinance 1223 since January 1, 2007.
81. All documents concerning Ordinance 886 since January 1, 2007.

Please deem the above-mentioned requests to amend and/or supplement the previously-forwarded requests on Comprelli's behalf pursuant to the New Jersey Open Public Records Act, N.J.S.A. 47:1A-1 et seq. ("OPRA"), the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq. ("OPMA"), the Freedom of Information Act and Privacy Act, 5 U.S.C. § 552, and other applicable common, statutory and regulatory law.

Finally, we note that the documents forwarded by you on Tuesday, January 5 included what appears to be a log reflecting inspections made by or on behalf of the Town of Harrison with respect to Comprelli's parking lots. Please be advised that the Town of Harrison's personnel shall cease and desist any access of Comprelli's lots without the requisite notice and judicial approval, and Comprelli shall hold the Town of Harrison and its agents, employees and representatives accountable for any unlawful trespass or other violation of Comprelli's lawful rights.

Thank you.

Very truly yours,


Paul H. Schafhauser

cc: Steven A. Caputo, Esq. (by PDF and mail)



FAX COVER SHEET

DATE: January 19, 2010

TIME: 4:30 P.M.

TO: Paul H. Schafhauser, Esq.

Via Fax: 973-274-6414

FROM: **PAUL J. ZARBETSKI, TOWN CLERK/ATTORNEY**

318 HARRISON AVENUE

HARRISON, NEW JERSEY 07029

FAX NO. 973-484-4575

PHONE NO. 973-268-2442

RE: **M&J Compralli Realty LLC OPRA Request**

By: *Isabel*

SPECIAL INSTRUCTIONS:

- PLEASE: _____ CALL TO DISCUSS
- _____ CALL SHOULD YOU HAVE ANY QUESTIONS
- _____ CALL TO CONFIRM
- _____ FOLLOW UP NO LATER THAN _____

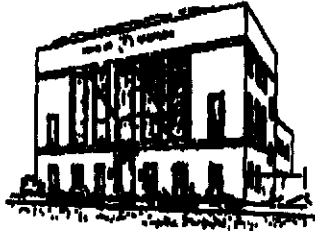
Number of pages including cover sheet: 3

4



PAUL J. ZARBETSKI, ESQ.
TOWN CLERK
TOWN ATTORNEY

TOWN OF HARRISON



HARRISON, NEW JERSEY

318 HARRISON AVENUE
HARRISON, NEW JERSEY 07008
TEL: (973) 884-4438
FAX: (973) 484-4878

January 19, 2010

Via Fax 973-274-6414 & Regular Mail

Paul H. Schafhauser, Esq.
Herrick, Feinstein LLP
One Gateway Center
Newark, N.J. 07102

Re: M&J Compralli Realty LLC OPRA Request

Dear Mr. Schafhauser:

I have consulted with counsel for the Town/Redevelopment Agency. This is in response to your January 7th letter that purports to "amend and/or clarify" your prior request made pursuant to the New Jersey Open Public Records Act ("OPRA"), N.J.S.A. 47:1A-1, *et seq.* Your amended request setting forth 81 categories of documents is so overly broad and vague that it does not comply with OPRA standards and is therefore impossible to answer. However, without waiving the foregoing, as to request number 79, all records regarding car counts have been provided previously.

As you know, OPRA does not contemplate wholesale requests for general information to be analyzed, collated, and compiled by the Town. *New Jersey Builders Ass'n v. New Jersey Council on Affordable Housing*, 390 N.J. Super. 166 (App. Div. 2007). OPRA does not authorize a party to make a blanket request for every document a public agency has on file. *Bent v. Township of Stafford Police Dept., Custodian of Records*, 381 N.J. Super. 30 (App. Div. 2005), nor is it intended as a research tool litigants may use to force government officials to identify and siphon information that may be useful in collateral litigation. *MAG Entertainment, LLC v. Division of Alcoholic Beverage Control*, 375 N.J. Super. 534 (App. Div. 2005).

Perhaps most importantly, a records requestor *must identify the records sought with specificity*; the request may not be a broad, generic description of documents that requires the Town to search its files and analyze, compile, and collate the requested information, nor does OPRA require a records custodian to undertake research for a requestor. *Bart v. Passaic County Public Housing Agency*, 406 N.J. Super. 445 (App. Div. 2009).

*M&J Comprilli Realty LLC OPRA Request
January 19, 2010
Page 2*

Finally, many of the documents sought (assuming they even exist) would be otherwise exempt. As you know, "inter-agency or intra-agency advisory, consultative, or deliberative material" are not "government records." N.J.S.A. 47:1A-1. Many of the documents sought (assuming they even exist) would also be exempt because of attorney-client privilege as well as the Town's obligation to protect against disclosure of certain confidential information.

Accordingly, the request is denied at this time because it is literally impossible to answer.

Nonetheless, however, the Town remains ready and willing to discuss how your request could be revised to comply with OPRA so that the Town could then produce those documents that are reasonably identifiable and not otherwise subject to OPRA exemption. The Town reserves the right to impose a special service charge pursuant to N.J.S.A. 47:1A-5c for any such revised requests.

Please advise.

Very truly yours,


Paul J. Zarbetaki
Town Clerk/Attorney

HERRICK

New York
Newark
Princeton

PAUL H. SCHAPHAUSER
PARTNER
Direct Tel: 973.374.2096
Direct Fax: 973.374.6414
Email: pschaphaus@herrick.com

January 21, 2010

BY FAX AND MAIL

Paul J. Zarbetaki, Esq.
318 Harrison Avenue
Harrison, New Jersey 07029

Re: Town of Harrison Ordinance No. 1223

Dear Mr. Zarbetaki:

I am in receipt of your letter dated January 19, 2010, by which you have "responded" to my letter dated January 7, 2010 by stating that the Town of Harrison will not, in fact, respond to a single of the many specific and clear requests that we made at your request.

By your letter dated January 5, 2010, you asserted that my client's requests required "clarification." We promptly provided the requested clarification in the form of a number of clearly-articulated and specific document requests made in accordance with the New Jersey Open Public Records Act, N.J.S.A. 47:1A-1 et seq. ("OPRA"). The Town of Harrison's blanket refusal to respond, coupled with your statement that the disclosure of any of the requested materials would be "impossible," speaks volumes.

The Town of Harrison and its personnel have a legal obligation to comply with specifically-framed requests. By my letter dated January 7, 2010, the Town of Harrison was presented with specifically-framed requests -- just as you had asked us to do. The Town of Harrison has inexplicably and inexcusably failed to comply with the very requests that it demanded be served.

The Town of Harrison is violating OPRA by its refusal to provide documents responsive to these plainly-stated requests. Under OPRA, "[t]he public agency shall have the burden of proving that the denial of access is authorized by law. If it is determined that access has been improperly denied, the court or agency head shall order that access be allowed. A requester who prevails in any proceeding shall be entitled to a reasonable attorney's fee." N.J.S.A. 47:1A-6. Civil penalties may be imposed when "[a] public official, officer, employee or custodian . . . knowingly and willfully violates [OPRA]." N.J.S.A. 47:1A-11. In addition, a public official, officer, employee or custodian against whom a penalty is imposed may be subject to disciplinary proceedings. *Id.*

The fact that the Town of Harrison prefers not to answer appropriate questions about its activities -- just as Mayor McDonough and others refused to answer questions and abruptly walked out on a Town Council meeting conducted on November 17, 2010 while the public was

HERRICK, FEINSTEIN LLP
A New York limited liability partnership
and New Jersey limited liability partnership

ONE GATEWAY CENTER, NEWARK, NJ 07102 • TEL 973.374.2000 • FAX 973.374.2500 • www.herrick.com

I

HERRICK

Paul J. Zarbetski, Esq.
January 21, 2010
Page 2

asking questions -- is no excuse for a failure to comply with applicable law. Suffice it to state in closing that we will seek appropriate lawful relief in light of the Town of Harrison's failure to comply with OPRA and other applicable law, and we will seek reimbursement of all legal fees and costs incurred in having to do so.

Very truly yours,


Paul H. Schaffhauser

cc: Steven A. Caputo, Esq. (by PDF and mail)



FAX COVER SHEET

DATE: January 22, 2010 TIME: 3:10 P.M.
 TO: Paul H. Schafhauser, Esq. Via Fax: 973-274-6414

FROM: **Paul J. Zarbetski, Town Clerk/Attorney**
 318 HARRISON AVENUE
 HARRISON, NEW JERSEY 07029
 FAX NO. 973-484-4875 PHONE NO. 973-268-2443

RE: M & J Comprilli Realty LLC
 By: Isabel

SPECIAL INSTRUCTIONS:

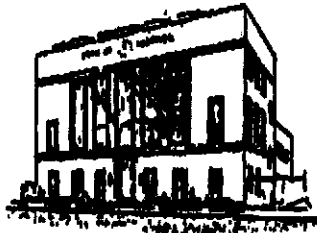
PLEASE: _____ CALL TO DISCUSS
 _____ CALL SHOULD YOU HAVE ANY QUESTIONS
 _____ CALL TO CONFIRM
 _____ FOLLOW UP NO LATER THAN _____

Number of pages including cover sheet: 2

J



TOWN OF HARRISON



PAUL J. ZARBETSKI, Esq.
TOWN CLERK
TOWN ATTORNEY

918 HARRISON AVENUE
HARRISON, NEW JERSEY 07009
TEL: (973) 888-9483
FAX: (973) 484-4575

HARRISON, NEW JERSEY
January 22, 2010

Via Fax 973-274-6414 & Regular Mail

Paul H. Schafhauser, Esq.
Horrick, Feinstein LLP
One Gateway Center
Newark, N.J. 07102

Re: M&J Comprelli Realty LLC OPRA Request

Dear Mr. Schafhauser:

In response to your January 21 letter, if your client would simply revise its request to comply with the New Jersey Open Public Records Act ("OPRA"), N.J.S.A. 47:1A-1, *et seq.*, by identifying *with specificity* the documents it would like to review (or have copied) – and without the need for the Town to "search its files and analyze, compile, and collate the requested information" – the Town would be pleased to produce them. The use of phrases in your §1 requests such as "any and all" and "all documents related to" not only renders your request outside of the intent and purview of OPRA, it makes it impossible to answer.

Unless and until your client revises its request to comply with OPRA, it cannot be answered. The Town remains willing to work with you to do so, however, based on the tone of various correspondence you have sent over the past weeks, your client appears intent on initiating litigation regardless of the Town's response.

Finally, a further response to your January 5, 2010 letter is warranted in light of the aggressive and litigious tone of your recent correspondence. Paragraph three of your letter sets forth certain accusations against Mayor McDonough. Suffice it to say at this time that the Mayor categorically denies the statements and "threats" that you have attributed to him. The fact that you have intertwined those baseless and frivolous allegations in what purports to be a request for documents only highlights your client's underlying intent to harass the Town and attempt to "make a case" for subsequent litigation.

The Town prefers to resolve this matter amicably, but, obviously the choice is yours.

Very truly yours,

Paul J. Zarbetski
Town Clerk/Attorney

HERRICK

NEW YORK
NEWARK
PRINCETON

PAUL H. SCHAPHAUSEN
PARTNER
Direct Tel: 973.274.2000
Direct Fax: 973.274.6414
Email: pscha@hauer@herrick.com

February 24, 2010

BY FAX AND MAIL

Paul J. Zarbetski, Esq.
318 Harrison Avenue
Harrison, New Jersey 07029

Re: OPRA Requests

Dear Mr. Zarbetski:

I write in response to your letter dated January 22, 2010, by which you asserted, among other things, that "the Town would be pleased" to produce documents in response to the OPRA requests propounded on behalf of M & J Comprilli Realty, LLC ("Comprilli"), except that "the use of phrases such as 'any and all' and 'all documents related to' . . . makes it impossible to answer" the requests contained in my letter dated January 7, 2010 (copy attached). A review of those requests, however, indicates that not a *single request* contains either the phrase "any and all" or the phrase "all documents related to." In any event, the use of the words "any" or "all" do not render a request deficient under OPRA. Therefore, your objection is wholly without merit.

Nonetheless, in a further attempt to address your stated objections, albeit without waiver of or limitation of Comprilli's previously-stated requests, and in light of your apparent objection to the use of the words "any" and "all" in the context of particular document requests, please deem those requests to be amended and/or clarified to request the production of all documents responsive to the following requests:

1. Permits, approvals, licenses and/or variances issued with respect to Comprilli and/or Joseph Comprilli, or with respect to parking lots and/or facilities owned and/or operated by them.
2. Applications for permits, approvals, licenses and/or variances with respect to Comprilli and/or Joseph Comprilli, or with respect to parking lots and/or facilities owned and/or operated by them.
3. Certificates of occupancy issued with respect to Comprilli and/or Joseph Comprilli, or with respect to parking lots and/or facilities owned and/or operated by them.
4. Notices of violation, notices to cure, citations, violations, summonses or complaints issued with respect to Comprilli and/or Joseph Comprilli, or with

HERRICK, FINESTEIN LLP
A New York limited liability partnership by order of the State of New York
Professional Corporation

ONE GATEWAY CENTER, NEWARK, NJ 07102 • TEL 973.274.2000 • FAX 973.274.2100 • www.herrick.com

K

HERRICK

Paul J. Zarbetaki, Esq.
February 24, 2010
Page 2

- respect to parking lots and/or facilities owned and/or operated by them.
5. Appraisals, investigations or studies with respect to parking lots and/or facilities owned and/or operated by Comprilli.
 6. Records regarding zoning variances and restrictions, proposed zoning changes or intentions to exercise eminent domain with respect to Comprilli and/or Joseph Comprilli, or with respect to parking lots and/or facilities owned and/or operated by them.
 7. Permits, licenses, approvals, determinations and other qualifications concerning parking lots and/or facilities owned and/or operated by Comprilli.
 8. Notifications, notices of violations and reports not already referenced in connection with the above requests concerning parking lots and/or facilities owned and/or operated by Comprilli, including but not limited to documents pertaining to CERCLA, SARA, Toxic Substances Control Act, RCRA, Solid Waste Disposal Act, Clean Water Act, Clean Air Act.
 9. Documents (including but not limited to field notes) concerning studies, visits, inspections and/or observations of parking lots and/or facilities owned and/or operated by Comprilli.
 10. Agreements between Comprilli and/or Joseph Comprilli and the Town of Harrison.
 11. Documents concerning commuter parking taxes paid by Comprilli.
 12. Records referring to Comprilli and/or Joseph Comprilli, or to parking lots and/or facilities owned and/or operated by them.
 13. Permits, approvals, licenses and/or variances issued with respect to J. Supor & Son Trucking & Rigging Co., Inc. and/or Joseph Supor III (collectively, "Supor"), or with respect to parking lots and/or facilities owned and/or operated by them.
 14. Applications for permits, approvals, licenses and/or variances with respect to Supor, or with respect to parking lots and/or facilities owned and/or operated by them.
 15. Certificates of occupancy issued with respect to Supor, or with respect to parking lots and/or facilities owned and/or operated by them.

HERRICK

Paul J. Zarbetski, Esq.
February 24, 2010
Page 3

16. Notices of violation, notices to cure, citations, violations, summonses or complaints issued with respect to Supor, or with respect to parking lots and/or facilities owned and/or operated by them.
17. Appraisals, investigations or studies with respect to parking lots and/or facilities owned and/or operated by Supor.
18. Records regarding zoning variances and restrictions, proposed zoning changes or intentions to exercise eminent domain with respect to Supor, or with respect to parking lots and/or facilities owned and/or operated by them.
19. Permits, licenses, approvals, determinations and other qualifications concerning parking lots and/or facilities owned and/or operated by Supor.
20. Notifications, notices of violations and reports not already referenced in connection with the above requests concerning parking lots and/or facilities owned and/or operated by Supor, including but not limited to documents pertaining to CERCLA, SARA, Toxic Substances Control Act, RCRA, Solid Waste Disposal Act, Clean Water Act, Clean Air Act.
21. Documents (including but not limited to field notes) concerning studies, visits, inspections and/or observations of parking lots and/or facilities owned and/or operated by Supor.
22. Agreements between Supor and the Town of Harrison.
23. Records referring to Supor, or to parking lots and/or facilities owned and/or operated by them.
24. Documents concerning commuter parking taxes paid by Supor.
25. Records referring to Supor and/or to parking lots and/or facilities owned and/or operated by them.
26. Permits, approvals, licenses and/or variances issued with respect to Hudson County Improvement Authority and/or its agents or affiliates (collectively, "HCIA"), or with respect to parking lots and/or facilities owned and/or operated by them.
27. Applications for permits, approvals, licenses and/or variances with respect to HCIA, or with respect to parking lots and/or facilities owned and/or operated by them.

HERRICK

Paul J. Zarbetski, Esq.
February 24, 2010
Page 4

28. Certificates of occupancy issued with respect to HCIA, or with respect to parking lots and/or facilities owned and/or operated by them.
29. Notices of violation, notices to cure, citations, violations, summonses or complaints issued with respect to HCIA, or with respect to parking lots and/or facilities owned and/or operated by them.
30. Appraisals, investigations or studies with respect to parking lots and/or facilities owned and/or operated by HCIA.
31. Records regarding zoning variances and restrictions, proposed zoning changes or intentions to exercise eminent domain with respect to HCIA, or with respect to parking lots and/or facilities owned and/or operated by them.
32. Permits, licenses, approvals, determinations and other qualifications concerning parking lots and/or facilities owned and/or operated by HCIA.
33. Notifications, notices of violations and reports not already referenced in connection with the above requests concerning parking lots and/or facilities owned and/or operated by HCIA, including but not limited to documents pertaining to CERCLA, SARA, Toxic Substances Control Act, RCRA, Solid Waste Disposal Act, Clean Water Act, Clean Air Act.
34. Documents (including but not limited to field notes) concerning studies, visits, inspections and/or observations of parking lots and/or facilities owned and/or operated by HCIA.
35. Agreements between HCIA and the Town of Harrison.
36. Documents concerning commuter parking taxes paid by HCIA.
37. Records referring to HCIA, or to parking lots and/or facilities owned and/or operated by them.
38. Permits, approvals, licenses and/or variances issued with respect to Little Man Parking and/or its agents or affiliates (collectively, "Little Man"), or with respect to parking lots and/or facilities owned and/or operated by them.
39. Applications for permits, approvals, licenses and/or variances with respect to Little Man, or with respect to parking lots and/or facilities owned and/or operated by them.

HERRICK

Paul J. Zarbetski, Esq.
February 24, 2010
Page 5

40. Certificates of occupancy issued with respect to Little Man, or with respect to parking lots and/or facilities owned and/or operated by them.
41. Notices of violation, notices to cure, citations, violations, summonses or complaints issued with respect to Little Man, or with respect to parking lots and/or facilities owned and/or operated by them.
42. Appraisals, investigations or studies with respect to parking lots and/or facilities owned and/or operated by Little Man.
43. Records regarding zoning variances and restrictions, proposed zoning changes or intentions to exercise eminent domain with respect to Little Man, or with respect to parking lots and/or facilities owned and/or operated by them.
44. Permits, licenses, approvals, determinations and other qualifications concerning parking lots and/or facilities owned and/or operated by Little Man.
45. Notifications, notices of violations and reports not already referenced in connection with the above requests concerning parking lots and/or facilities owned and/or operated by Little Man, including but not limited to documents pertaining to CERCLA, SARA, Toxic Substances Control Act, RCRA, Solid Waste Disposal Act, Clean Water Act, Clean Air Act.
46. Documents (including but not limited to field notes) concerning studies, visits, inspections and/or observations of parking lots and/or facilities owned and/or operated by Little Man.
47. Agreements between Little Man and the Town of Harrison.
48. Documents concerning commuter parking taxes paid by Little Man.
49. Records referring to Little Man, or to parking lots and/or facilities owned and/or operated by them.
50. Permits, approvals, licenses and/or variances issued with respect to Day Care Parking Center and/or its agents or affiliates (collectively, "Day Care"), or with respect to parking lots and/or facilities owned and/or operated by them.
51. Applications for permits, approvals, licenses and/or variances with respect to Day Care, or with respect to parking lots and/or facilities owned and/or operated by them.

HARRISON

Paul J. Zarbetski, Esq.
February 24, 2010
Page 6

52. Certificates of occupancy issued with respect to Day Care, or with respect to parking lots and/or facilities owned and/or operated by them.
53. Notices of violation, notices to cure, citations, violations, summonses or complaints issued with respect to Day Care, or with respect to parking lots and/or facilities owned and/or operated by them.
54. Appraisals, investigations or studies with respect to parking lots and/or facilities owned and/or operated by Day Care.
55. Records regarding zoning variances and restrictions, proposed zoning changes or intentions to exercise eminent domain with respect to Day Care, or with respect to parking lots and/or facilities owned and/or operated by them.
56. Permits, licenses, approvals, determinations and other qualifications concerning parking lots and/or facilities owned and/or operated by Day Care.
57. Notifications, notices of violations and reports not already referenced in connection with the above requests concerning parking lots and/or facilities owned and/or operated by Day Care, including but not limited to documents pertaining to CERCLA, SARA, Toxic Substances Control Act, RCRA, Solid Waste Disposal Act, Clean Water Act, Clean Air Act.
58. Documents (including but not limited to field notes) concerning studies, visits, inspections and/or observations of parking lots and/or facilities owned and/or operated by Day Care.
59. Agreements between Day Care and the Town of Harrison.
60. Documents concerning commuter parking taxes paid by Day Care.
61. Records referring to Day Care, or to parking lots and/or facilities owned and/or operated by them.
62. Agreements, understandings or other records concerning any limitation on surface parking lots in the Township of Harrison.
63. Agreements, understandings or other records concerning any limitation on surface parking lots in the Township of Harrison.
64. Agreements, understandings or other records between the Town of Harrison and HClA concerning commuter parking lots and/or facilities within the Town of

HERRICK

Paul J. Zarbetaki, Esq.
February 24, 2010
Page 7

Harrison.

65. Agreements, understandings or other records between the Town of Harrison and Advance Realty Group concerning commuter parking lots and/or facilities within the Town of Harrison.
66. Agreements, understandings or other records between the Town of Harrison and Harrison Redevelopment Agency ("HRA") concerning commuter parking lots and/or facilities within the Town of Harrison.
67. Agreements, understandings or other records between the Town of Harrison and Red Bull and/or the New York Red Bulls (collectively, "Red Bull") concerning commuter parking lots and/or facilities within the Town of Harrison.
68. Documents prepared and/or executed by Joseph Condari ("Condari") concerning commuter parking lots and/or facilities within the Town of Harrison.
69. Documents prepared and/or executed by Rocco Rossomanno ("Rossomanno") concerning commuter parking lots and/or facilities within the Town of Harrison.
70. Documents prepared and/or executed by Mayor Raymond McDonough ("McDonough") concerning commuter parking lots and/or facilities within the Town of Harrison.
71. Documents exchanged and/or transmitted between the Town of Harrison and HRA on or after January 1, 2007 concerning commuter parking lots and/or facilities within the Town of Harrison.
72. Documents exchanged and/or transmitted between the Town of Harrison and HCIA on or after January 1, 2007 concerning commuter parking lots and/or facilities within the Town of Harrison.
73. Documents exchanged and/or transmitted between the Town of Harrison and Red Bull on or after January 1, 2007 concerning commuter parking lots and/or facilities within the Town of Harrison.
74. Documents relating to or concerning fees or prices to be paid or fixed with respect to the commuter parking deck owned and/or operated by HCIA within the Town of Harrison.
75. Documents exchanged and/or transmitted between McDonough and HCIA, Advance, Red Bull and/or HRA concerning commuter parking lots and/or

HERRICK

Paul J. Zarbetski, Esq.
February 24, 2010
Page 8

facilities within the Town of Harrison

76. Documents prepared and/or executed by Brien Renkart ("Renkart") concerning commuter parking lots and/or facilities within the Town of Harrison.
77. Documents prepared and/or executed by Kurt Campbell ("Campbell") concerning commuter parking lots and/or facilities within the Town of Harrison.
78. Documents relating or referring to requests that Renkart and/or Campbell inspect Comprelli's lots.
79. Authorizations for Renkart and/or Campbell to inspect Comprelli's lots.
80. Documents concerning Ordinance 1223 since January 1, 2007.
81. Documents concerning Ordinance 886 since January 1, 2007.

We hereby reiterate Comprelli's request that the Town immediately respond to the OPRA requests, failing which we shall have no alternative but to seek appropriate legal recourse without further notice. Thank you.

Very truly yours,


Paul H. Schaffner

RECEIVED
MAY 07 2010

FILED

APR 30 2010

BERNADETTE DECASTRO, J.S.C.

CASTANO QUIGLEY LLC
1120 Bloomfield Avenue
West Caldwell, N.J. 07007
(973) 808-1234
Attorneys for Defendant
Town of Harrison

BY:

M&J COMPRELLI REALTY LLC, JOSEPH
COMPRELLI, JOSEPH SUPORT III, J.
SUPOR & SON TRUCKING & RIGGING
CO. INC. and S&B REALTY CO.,
Plaintiffs,

v.

TOWN OF HARRISON and JOHN DOES 1
THROUGH 5 (fictitious persons),
Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – HUDSON COUNTY
DOCKET NO. HUD-L-1179-10

Civil Action

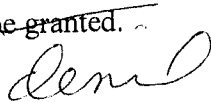


ORDER

THIS MATTER before the Court on motion of defendant, Town of Harrison, for the entry of an Order dismissing the complaint pursuant to R. 4:6-2, *et seq.*, and the Court having considered the papers filed and arguments of counsel, and for good cause appearing, it is

On this 30th day of April 2010,

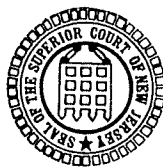
ORDERED that the complaint is dismissed with prejudice for failure to state a claim upon which relief can be granted.


Bernadette DeCastro, J.S.C.

SUPERIOR COURT OF NEW JERSEY

HUDSON VICINAGE

CHAMBERS OF
BERNADETTE N. DE CASTRO
JUDGE



Hudson County Administration Building
595 Newark Avenue
Jersey City, New Jersey 07306

May 4, 2010

RE: M&J Comprelli Realty, LLC v. Town of Harrison

OTSC and Motion to Dismiss Complaint

Docket # L-1179-10

Plaintiffs (M & J Realty and Joseph Comprelli) are owner/operators of commuter parking lots located in the Town of Harrison. They have operated parking lots for over 20 years in the Town. Sometime in 2009 plaintiffs allege that the Town entered its lots without permission to count the number of vehicles and record that number in a log. According to plaintiff, defendant did this to harass and inconvenience plaintiff.

Plaintiff attempted to obtain records related to the Town's inspection of its lots. In letters dated 11/29/09, 12/9/09 plaintiff requested copies of the logs well as to records of other commuter parking lots to ascertain whether they were being treated differently. The town replied that plaintiff was required to submit an OPRA request. On 12/23/09 plaintiff filed an OPRA request and simply attached its previous letter requesting certain documents.

On 1/5/10 the Town responded and provided some documents but asked plaintiffs to clarify its request.

The back and forth requests by plaintiff and claims of lack of specificity claims by the Town continued until plaintiffs submitted a list of 81 separate requests for any and all documents

pertaining to its parking lots/garages as well as other licensed garages/lots in the Town, including requests for a host of other items.

By letter dated March 10, 2010, the Supor plaintiffs submitted an OPRA request to the Town which was similar to the one submitted on behalf of the Comprelli plaintiffs. By letter dated March 19, 2010, the Town timely responded to the request, producing those documents which were specifically identified, seeking clarification for some others, and denying the balance of the requests as overbroad. The pleadings were amended to allow the Comprelli and Supor plaintiffs to join in one proceeding because of the similarity of the issues. A consent order was filed to that effect on March 26, 2010. By letter dated March 31, 2010, both sets of plaintiffs submitted what purported to be an "amended" OPRA request, comprised of 22 pages and 131 requests, with subparts.

Plaintiff seeks an order directing defendant to produce the documents, grant damages & impose civil penalties.

Initially, Defendant-Town of Harrison forwarded item number 79 of plaintiffs OPRA request but maintains that the remaining items of the list of documents are not identifiable and is no more than a blanket request. On the day of oral argument counsel informed the Court that the Town's counsel gave plaintiff copies of two agreements from his own file that the Town had with HCIA, which comprised number 1 and # 35 on the 3/31/10 request. Defendant states that the request should be deemed denied in its entirety. However, Plaintiff argues that Defendant has not shown good faith and by providing two of the documents the defendant has waived its defenses. Plaintiff further states that defendant has not cited any justification or plausible reason why it should not be obliged to produce the requested records that are clearly within its possession. The Town has only provided blanket denials and has not addressed any of plaintiff's specific demands. Plaintiff argues that under the Open Public Meetings Act, N.J.S.A. 10:4-6, plaintiffs are entitled to request minutes of meetings within the Town and related agencies and that such documents must be promptly produced. Finally, plaintiff argues that they have a common law right of access to public records because the

documents were prepared by public officers authorized to make the records and plaintiffs have an interest in these records since the Lots are located in the Town and plaintiffs have ample reason to believe that the Town is treating them differently than other similar businesses in the Town. The Town further submits it complied with the OPRA request and provided plaintiffs with those documents that were identifiable and specific. Moreover, Harrison states that the sheer volume and breadth of the request gives rise to an inference that it would substantially disrupt agency operations and thus it was permitted to deny the request. Defendant argues that plaintiff has made impossible requests which are at odds with the purposes of OPRA. Defendant states that they have made good faith efforts to comply with the requests, however under OPRA, agencies are only required to disclose "identifiable" governmental records not otherwise exempt. Wholesale requests for general information are not authorized under OPRA because OPRA does not permit open-ended searches of an agency's files. Defendant contends that denial of the requests must be affirmed, or alternatively, the Town's motion to dismiss the complaint for failure to state a cause of action should be granted because the requests were *void ab initio*, as a matter of law.

The Legislature's enactment of the Open Public Records Act ("OPRA"), was intended to enhance the citizenry's statutory rights to government maintained records. *See N.J.S.A. 47:1A-1 to -13*. OPRA (N.J.S.A.47:1A-1 to -13), declares that it is the public policy of New Jersey that, subject to certain exceptions, government records shall be readily accessible for inspection, copying, or examination by its citizens. N.J.S.A.47:1A-1.

Under OPRA, as under its predecessor statute, the Right to Know Law, N.J.S.A. 47:1A-2 to -4, repealed by L. 2001, c. 404, the Legislature continued "the State's longstanding public policy favoring ready access to most public records." Serrano v. South Brunswick Tp., 358 N.J. Super. 352, 363 (App.Div.2003). As noted in *Serrano*, in examining case law under the prior Right to Know Law, "New Jersey has a history of commitment to public participation in

government and to the corresponding need for an informed citizenry." *Ibid.* (quoting South Jersey Pub. Co. v. New Jersey Expwy. Auth., 124 N.J. 478, 486-87(1991)). Thus, N.J.S.A. 47:1A-1 specifically provides that "all government records shall be subject to public access unless exempt." Furthermore, the custodian of the government record has the burden of proving that the denial of access is authorized by law. N.J.S.A. 47:1A-6.

OPRA's definition of "government record" demarks the outer limits of the statute's reach. Importantly, OPRA limits its definition of "government record" to:

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 . . . official business . . . or that has been received in the course of . . . official business . . .

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

While OPRA provides an alternative means of access to government documents not otherwise exempted from its reach, it is not intended as a research tool litigants may use to force government officials to identify and siphon useful information. Rather, OPRA simply operates to make identifiable government records "readily accessible for inspection, copying, or examination." N.J.S.A. 47:1A-1. Even then, inspection is subject to reasonable controls, and courts have inherent power to prevent abuse and protect the public officials involved. *See DeLia v. Kiernan*, 119 N.J. Super. 581, 585 (App.Div.), *certif. denied*, 62 N.J.74 (1972). In fact, if a request would substantially disrupt agency operations, the custodian may deny it and attempt to reach a reasonable solution that accommodates the interests of the requestor and the agency. N.J.S.A. 47:1A-5(g). In fact, defendant argues that plaintiff rebuked its attempt to resolve the issue and instead filed the within complaint.

Significantly for present purposes, OPRA only allows requests for records, not requests for information. OPRA does not require record custodians to conduct research among its records for a requestor and correlate data from various government records in the custodian's possession. Under OPRA, agencies are required to disclose only "identifiable" governmental records not otherwise exempt. Wholesale requests for general information to be analyzed, collated and compiled by the responding government entity are not encompassed therein. In short, OPRA does not countenance open-ended searches of an agency's files. *MAG Entertainment LLC v Div. of Alcoholic Beverage Control*, 375 N.J. Super. 535, 549 (App. Div. 2005)

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. Access to a public record under OPRA must specifically describe the document sought. *MAG supra*, 375 N.J. Super. at 546-49. OPRA operates to make identifiable government records "readily accessible for inspection, copying, or examination." N.J.S.A. 47:1A-1. As such, 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. OPRA does not authorize unbridled searches of an agency's property. In fact, if a request "would substantially disrupt agency operations, the custodian may deny . . . [it and] . . . attempt[] to reach a reasonable solution . . . that accommodates the interests of the requestor and the agency." N.J.S.A. 47:1A-5(g).

Rather, a proper request under OPRA must specify with reasonable clarity only those documents that are desired. *Bent v. Twp. of Stafford Police Dep't*, 381 N.J. Super. 30, 38-39, (App. Div. 2005) A party cannot satisfy this requirement by simply requesting all or any of an agency's documents because OPRA does not authorize random "unbridled searches" of an agency's

property. *Id.*

Pursuant to OPRA, all government documents are public unless subject to a listed exception. N.J.S.A. 47:1A-1. A party denied access to government records is entitled to institute a proceeding against the public entity to challenge the denial of access. N.J.S.A. 47:1A-6. In the present action, the Town is not claiming that the records plaintiffs have requested are exempt from production. Plaintiff's requests were made under OPRA, OPMA and the common law. In their opposition to plaintiff's request for production of documents, the Town argues that plaintiffs do not specifically identify the records sought and response to the document requests will require research, analysis or evaluation in order to determine what specific records plaintiffs are requesting. Under OPRA, the public agency bears the burden of proving the denial of access is authorized by law. N.J.S.A. 47:1A-6.

In MAG Entertainment LLC v. Div. of Alcoholic Beverage Control, 3675 N.J. Super. 534 (App. Div. 2005). The court emphasized that OPRA requires agencies to disclose only "identifiable" governmental records not otherwise exempt. "Wholesale requests for general information to be analyzed, collated and compiled by the responding government entity are not encompassed therein. In short, OPRA does not contenance open-ended searches of an agency's files." *Id.* at 549. The Court in MAG Entertainment LLC determined that the trial court had failed to apply these governing principles and erred in granting MAG Entertainment LLC's OPRA request, as the request failed to identify with specificity or particularity the governmental records sought. In the present case, plaintiff repeatedly attempted to comply with defendant's need for more specific document requests and ultimately provided a revised request which would comply with OPRA on March 31, 2010. None of defendant's papers reference the conversation exchanged between the attorneys for plaintiff and defendant on March 23, 2010, nor the subsequent amendment and supplemental requests made by plaintiff's on March 31, 2010 in an attempt to comply with the requests made by defendant for more specific requests that complied with the OPRA specifications attached as plaintiff's Exhibit T. Defendants have refused to respond due to the pending litigation.

Upon a review of plaintiff's Exhibit T, it is clear that plaintiffs request disclosure of identifiable governmental records that are not otherwise exempt. Plaintiff's have amended their previous requests to include more specific requests which identify the particular documents sought for specific property addresses for specific time periods. At oral argument, it was determined that many of the requested items were specifically sufficient to identify the document requested and still the Town had not turned them over because of the pending litigation. In

Defendants argue that the 3/31/10 request as well as the prior requests would be a burden on the Town. OPRA "is not intended as a research tool litigants may use to force government officials to identify and siphon useful information." MAG Entertainment LLC, supra, 375 N.J. Super. at 546. Additionally, "OPRA does not require record custodians to conduct research among its records for a requestor to correlate data from various government records in the custodian's possession." Id. at 546-547. The March 31, 2010 amendment of plaintiff's OPRA requests are not blanket requests for documentation as contended by the defendant because the document requests specifically identify the documents sought for which particular entities and the years for which said documentation is sought. This Court finds that plaintiffs have sufficiently amended their requests in a manner which would not require the defendant to guess the information that plaintiff is requesting. In the very least, the custodian of record should have identified the items that were too overbroad to find. This was not done.

Under OPRA, the burden remains on the public agency for denying access. If access has been improperly denied, the court shall allow access. N.J.S.A. 47:1A-6. This Court finds that the Town has not articulated a legitimate reason for its blanket denial for each of plaintiff's requests in the March 31, 2010 submission or for its failure to consider the March 31, 2010 submission due to the pending litigation. Notably, "[t]he fact that litigation was pending between the [requestor and the agency] when [the requestor] made its public records request, does not, in itself, relieve the government agency of its obligation to comply with OPRA." MAG Entertainment LLC, supra, 375 N.J. Super. at 544-545.

Under the Open Public Meetings Act ("OPMA"), N.J.S.A. 10:4-6 et seq., there is a strong public policy in favor of open government. This right of public access includes access to the minutes of public

meetings. N.J.S.A. 10:4-14. Here, plaintiff requests minutes of Town meetings and related agencies and failure to produce the requested minutes is a violation of the OPMA. Accordingly, the Town must produce these minutes of these meetings for review by plaintiff.

The common law right of access to public records is not absolute. The court must balance the citizen's interest in gaining access to public records against the State's interest in confidentiality. S. N.J. Newspapers, Inc. v. Tp. of Mt. Laurel, 141 N.J. 56, 72-73 (1995). The interest does not have to be purely personal, but rather may be 'one citizen or taxpayer out of many, concerned with a public problem or issue.' S. N.J. Newspapers, supra, 141 N.J. at 71 (quoting Irval Realty Inc. v. Board of Public Utility Com., 61 N.J. 366, 372 (1972)). In the present case, defendants have not addressed plaintiff's common law right of access to these public records. However, a review of the public records sought reveals that the requested documents are written memorials made by public officers authorized to make the records. Plaintiffs have proven that they retain an interest in these records since the lots are located in the Town and plaintiffs have reason to believe that the Town is exhibiting disparate treatment toward plaintiffs in comparison to other similar businesses in the town of Harrison. The Town has not articulated any concern for confidentiality of the requested records, and as such, there is no basis to withhold these records from plaintiff's under the common law.

Defendant's cross-motion to dismiss for failure to state a claim is denied. Rule 4:6-2(e) allows the court to dismiss a matter for failure to state a claim. In Printing Mart v. Sharp Electronics, 116 N.J. 739, 746 (1989), the court reiterated that a motion under this rule requires that the complaint be searched in depth and with liberality to determine if a cause of action can be gleaned even from an obscure statement, particularly if discovery is taken. Every reasonable inference is therefore accorded the plaintiff and the motion granted only in rare instances and ordinarily without prejudice. See also In re Contest of November 8, 2005, 192 N.J. 546 (2007), aff'g 388 N.J. Super. 663, 666 (App. Div. 2006); NCP Litigation Trust v. KPMG LLP, 187 N.J. 353 365 (2006). Moreover, a complaint should not be dismissed under this rule where a cause of

action is suggested by the facts and a theory of actionability may be articulated by amendment of the complaint. See Printing Mart, 116 N.J. at 746. However, it is appropriate to dismiss a complaint which states no basis for relief and where discovery would not provide a basis for relief. Energy Rec. v. Depot of Env. Prot., 320 N.J. Super. 59, 64 (App. Div. 1999), aff'd o.b. 170 N.J. 246 (2001). Plaintiffs have demonstrated that they are entitled to the records requested under OPRA, the common law and OPMA and as such, have stated a claim upon which relief can be granted. Therefore, defendant's motion to dismiss is denied.

OPRA allows the court to impose attorney's fees and civil penalties under certain circumstances. Pursuant to N.J.S.A. 47:1A-11, civil penalties may be imposed when "[a] public official, officer, employee or custodian . . . knowingly and willfully violates [OPRA]." Mason v. City of Hoboken, 196 N.J. 51, 67 (2008) (citing N.J.S.A. 47:1A-11). If the OPRA request was "unreasonably denied . . . under the totality of the circumstances," a civil penalty of \$1,000 for an initial violation will be imposed, with increasing penalties for subsequent violations. N.J.S.A. 47:1A-11. The Appellate Division noted that the Superior Court's role under OPRA is not as broad as the role of the Government Records Council and further explained that "[t]he Superior Court has jurisdiction over 'proceeding[s] to challenge the custodian's decision' to deny access to a record. Hirsch v. City of Hoboken, No. A-5346-06T2 (App. Div. Aug. 5, 2008)(slip op at 5). The Appellate Division indicated that the Superior Court may grant relief limited to an "order that access be allowed" and an award of a "reasonable attorney's fee" to a requestor who prevails. Hirsch v. City of Hoboken, No. A-5346-06T2 (App. Div. Aug. 5, 2008)(slip op at 5) (citing N.J.S.A. 47:1A-6).

Pursuant to N.J.S.A. 47:1A-11, the Superior Court's jurisdiction with respect to penalties is over "proceedings for the collection and enforcement of the penalty" The court is required to collect and enforce the penalty in "proceedings in accordance with the 'Penalty Enforcement Law of 1999,' N.J.S.A. 2A:58-10-12. The Penalty Enforcement Law does not provide an independent basis for the Superior Court to adjudicate OPRA civil penalties. Hirsch, slip op. at 6. That Law allows the Superior Court to "impose a civil penalty" when "a statute or ordinance allows a court action to impose a civil penalty." N.J.S.A. 2A:58-11(a); see State, Dept. of Cmty. Affairs v. Wertheimer, 177 N.J. Super. 595, 600 (App. Div. 1980). OPRA does not so provide. Therefore, plaintiff's request for civil penalties is denied.

For the foregoing reasons plaintiff's order to show cause is granted and defendant's motion to dismiss plaintiff's complaint is denied. The Town is ordered to provide access to the requested documents within 45 days. The Town shall state any exemptions specifically as to any documents not turned over. Plaintiff's are entitled to reasonable attorneys fees and shall submit a certification 10 days after the 45 day period expires.


BERNADETTE DECASTRO, J.S.C.

**SUPERIOR COURT OF NEW JERSEY
HUDSON VICINAGE**

CHAMBERS OF
BERNADETTE N. DE CASTRO
JUDGE



Hudson County Administration Building
898 Newark Avenue
Jersey City, New Jersey 07306

M & J Comprelli v. Town of Harrison
L-1179-10

August 26, 2010

This matter comes before the court on an Order for attorneys fees pursuant to this Court's May 4, 2010 Order which directed the Town of Harrison to reimburse plaintiffs for their reasonable legal fees and costs upon the submission of an affidavit of services. Based on the Affidavit of Services, plaintiffs are seeking reimbursement for fees and costs which they incurred through May 31, 2010, however plaintiffs reserve the right to supplement their application for fees for periods after May 31, 2010 in anticipation of additional fees and costs which will be incurred to obtain the Town of Harrison's full compliance with the court Order.

Counsel certified that the legal fees total \$67,365.50 plus costs and disbursements totaling \$1,897.86 through May 31, 2010 in connection with their efforts to obtain public records from the Town pursuant to the Open Public Records Act, the Open Public Meetings Act, and the common law, including this action. Plaintiffs seek an Order awarding them legal fees totaling \$67,365.50.

According to Mr. Shninauer at the inception of this matter his hourly rate was \$495.00. It was increased to \$520.00 effective January 1, 2010. He has been a member of the New Jersey

Bar since 1993 and his practice focuses on civil litigation. Ms. Podesta, who is the other attorney primarily responsible for handling this matter has been a member of the New Jersey Bar since 2000 and has an hourly rate of \$450 per hour. Counsel believes these rates are fair, reasonable, and within the range charged by other attorneys who have similar expertise and experience as reflected in the National Law Journal sampling of billing rates that he submitted.

Mr. Shufausser spent 49.7 hours on plaintiff's matter, drafting requests for public records, preparing pleadings and motion practice. Ms. Podesta spent 9.1 hours researching, preparing pleadings and engaging in motion practice. Lisa Sperber, Esq. spent 2.3 hours at an hourly rate of \$225 per hour, assisting Ms. Podesta in the preparation and filing of documents submitted to the Court in this matter.

Defendant, Town of Harrison objects to plaintiffs' application for attorneys fees arguing that N.J.S.A. 47:1A-6 only authorizes reasonable attorneys' fees to a "requestor who prevails in any proceeding." According to Defendant until the Appellate Division decides the matter plaintiffs cannot be deemed to have prevailed. However, the Appellate Division dismissed Defendant's appeal because this is still interlocutory until counsel fees are decided by this Court. According to case law, requestors qualify for attorney's fees under OPRA if they can show that the lawsuit was causally related to the relief obtained had a basis in law, with the burden shifting to the agency if it fails to respond within seven business days. *Mason v. City of Hoboken*, 196 N.J. 51 (2008).

Defendant also argues that the attorney's fees at hourly rates exceeding \$500 an hour for a summary proceeding are egregious and facially unreasonable. At oral argument, defendant maintained that a rate of \$225 is more akin to attorneys practicing in Hudson County but failed to present any proof of that figure.

Furthermore, Defendant contends that counsel's requested fee reimbursement is grossly unreasonable when compared to the factors set forth in RPC 1.5. Defendant argued that attorneys fees should be limited to those which are based on plaintiffs' March 31, 2010 "amended request."

Defendant argues that counsel's proposed hourly rates of \$525 and \$450 are unreasonable and that the number of hours spent on the matter is extreme, especially when plaintiff has argued that the issues in the case were straightforward and one-sided.

As far as when the application was complete and in the proper form, the Court agrees with defendant that until the plaintiff complied with submitting the request on the proper form, it was not a proper request. See *Renna v. County of Union*, 407 N.J. Super. 230 (App. Div. 2009). Additionally, there was a great deal of back and forth as to the specificity of the request but ultimately, through a consent order signed by Judge Gallipoli on March 26, 2010 allowing the plaintiff to file its OPRA request encompassing documents relating to various parking lots and parking lot operators in the City as of March 26, 2010. At the April 16, 2010 Order to Show Cause Hearing, defendant stated that its reply was a blanket denial. Therefore, March 26, 2010 shall be the date used to calculate the attorney's fees.

Pursuant to N.J.S.A. § 47:1A-6 which governs proceedings challenging the denial of access to records, a "requestor who prevails in any proceeding shall be entitled to a reasonable attorney's fee." In Warrington v. Village Supermarket, Inc., the court held that "[a] plaintiff is considered a prevailing party 'when actual relief on the merits of [the] claim materially alters the relationship between the parties by modifying the defendant's behavior in a way that directly benefits the plaintiff.'" 328 N.J. Super. 410, 420 (App. Div. 2000) (quoting Farrar v. Hobby, 506 U.S. 103). In this action, plaintiffs can be deemed prevailing parties because the April 30, 2010 Order granted plaintiff's OPRA request in all respects, directing the Town to respond to plaintiff's requests within forty-five days. The Court dismissed the Town's counterclaim.

The Town has raised an issue as to the appropriateness of the attorney's fees charged by plaintiff in the prosecution of this action. The Town argues that plaintiff's have not disclosed all necessary information to evaluate the reasonableness of plaintiff's attorney's fees. The Town argues that the fees charged by plaintiff's are unreasonable because plaintiff's attorneys have not

Indicated any special expertise in OPRA litigation that would justify the current hourly rate, and that the amount of time spent on prosecution of this action was excessive.

In *New Jerseyans for a Death Penalty Moratorium v. N.J. Dep't of Corr.*, 185 N.J. 137 (2005), the Court reiterated that "[t]he most useful starting point for determining the amount of a reasonable fee is the number of hours reasonably expended on the litigation multiplied by a reasonable hourly rate," a calculation known as the lodestar. *Hensley v. Eckerhart*, 461 U.S. 424, 433, 103 S. Ct. 1933, 1939, 76 L. Ed. 2d 40, 50 (1983)). The Court further stated that if a prevailing party has obtained "limited relief in comparison to all of the relief sought, the [trial] court must determine whether the expenditure of counsel's time on the entire litigation was reasonable in relation to the actual relief obtained . . . and, if not, reduce the award proportionately." *N. Bergen Rex Transp., Inc. v. Trailer Leasing Co.*, 158 N.J. 561, 572 (1999) (internal quotation marks omitted) (alterations in original). In *Hensley v. Eckerhart*, the U.S. Supreme Court noted that "the fee award should not be reduced simply because the plaintiff failed to prevail on every contention raised in the lawsuit." 461 U.S. 424, 435 (1983). Because "the critical factor is the degree of success obtained," "[w]here a plaintiff has obtained excellent results, his attorney should recover a fully compensatory fee." *New Jerseyans for a Death Moratorium*, 185 N.J. at 154. The Court also stated that the trial court should conduct a qualitative analysis that weighs such factors as the number of documents received versus the number of documents requested, and whether the purpose of the OPRA was vindicated by the litigation. 185 N.J. at 153.

In determining the reasonable attorney's fees, the Court held that

The trial court should conduct a qualitative analysis that weighs such factors as the number of documents received versus the number of documents requested, and whether the purpose of the OPRA was vindicated by the litigation. Further, as we stated in *Bergen Rex*, the court also should consider the factors enumerated in RPC 1.5(a), which include the novelty of the issue, the time and labor required to conclude the matter, and whether the representation precluded the attorney from undertaking other employment opportunities. *Id.* at 574. If, after consideration of all the relevant factors, the

court concludes that the requester has obtained a high degree of success, the requester should recover the full lodestar amount.

[Ibid.]

As the Court made clear, in *Rendine v. Pantzer*, 141 N.J. 292, 317 (1995) the attorney's presentation of billable hours should be set forth in sufficient detail to permit the trial court to ascertain the manner in which the billable hours were divided among the various counsel[.]

....

The trial court must then determine whether the assigned hourly rates for the participating attorneys are reasonable[.]

....

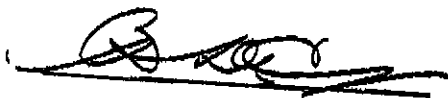
That determination need not be unnecessarily complex or protracted, but the trial court should satisfy itself that the assigned hourly rates are fair, realistic, and accurate, or should make appropriate adjustments.

Id. At 337.

Additionally, the judge should consider whether "the total number of hours expended was far in excess of what was reasonably required to resolve the matter." *In re Estate of Reisen*, 319 N.J. Super. 623, 635 (Ch. Div. 1998).

In the case at bar, the Court considered the factors set forth in *RPC 1.5(a)*, and finds that the lawyer's fee was reasonable and customary as demonstrated by the submission of a listing of fees for comparable law firms in New Jersey set forth in plaintiff's exhibits. The time billed to follow-up after the court ordered the defendant to comply with the request was required by the defendant's failure to produce the documents. The client paid for the services rendered. Counsel submitted two retainer agreements for the work performed. Counsel redacted time spent on other unrelated matters handled for his client. Based upon the number of hours less those hours spent prior to March 26, 2010, reasonable attorneys fees in the amount of \$28,951.36 is ordered. This figure reflects a deduction of \$58,694.03 billed prior to March 26, 2010. It includes fees incurred through July 31, 2010. Plaintiff is entitled to such an Order because of the continuing efforts plaintiffs have exhausted in order to attain compliance with the April 30, 2010 court Order. In

Tunksley v. Cook, 360 N.J. Super. 63, 66 (App. Div. 2003), the Court stated that a party who has been awarded reasonable attorney's fees is also entitled to the reasonable "fees and costs incurred in satisfying the judgment." Accordingly, plaintiffs are entitled to reasonable fees incurred since May 31, 2010 because of the additional costs plaintiffs have incurred in satisfying the judgment.



BERNADETTE DECASTRO, J.S.C.

HERRICK, FEINSTEIN LLP
One Gateway Center
22nd Floor
Newark, New Jersey 07102
(973) 274-2000
Attorneys for Plaintiffs
M&J Comprelli Realty, LLC,
Joseph Comprelli, Joseph Supor III,
J. Supor & Son Trucking & Rigging Co., Inc.
and S&B Realty Co.

FILED

JAN 04 2011

BERNADETTE N. DECASTRO, J.S.C.

----- X
M&J COMPRELLI REALTY, LLC, AND : SUPERIOR COURT OF NEW JERSEY
JOSEPH COMPRELLI, JOSEPH SUPOR, III, J. : LAW DIVISION
SUPOR & SON TRUCKING & RIGGING CO., : HUDSON COUNTY
INC. and S&B REALTY CO. : DOCKET NO.: HUD-L-1179-10

Plaintiffs,

Civil Action

vs.

TOWN OF HARRISON and JOHN DOES 1 : **ORDER FOR SUPPLEMENTAL FEES**
THROUGH 5 (FICTITIOUS PERSONS)

Defendants

----- X
THIS MATTER having been brought before the Court by Herrick, Feinstein LLP, attorneys for plaintiffs M&J Comprelli Realty, LLC, Joseph Comprelli Joseph Supor III, J. Supor & Son Trucking & Rigging Co., Inc., and S&B Realty Co. (collectively "Plaintiffs") by way of supplemental application for fees and costs pursuant to the Court's Orders in this matter dated April 30, 2010 (the "Order") and August 26, 2010 (the "Fee Order"), respectively, together with the Court's Decisions dated May 4, 2010 (the "Decision") and August 26, 2010 (the "Fee Decision"), respectively, whereby the Court directed the Town of Harrison (the "Town") to respond to Plaintiffs' records requests within forty-five days and to reimburse Plaintiffs for their reasonable legal fees and costs and wherein the Court held that "Plaintiffs shall be permitted to

hereafter apply for additional attorneys' fees and costs which may be incurred by Plaintiffs for all periods subsequent to July 31, 2010 and Plaintiffs may make such application pursuant by submitting one or more Supplemental Affidavits of Services pursuant to Rule 4:42-9(b)," and such fees and costs shall thereupon be adjudged to also be due and owing to Plaintiffs;


IT IS on this 4 day of ~~December~~ ^{January}, 2011,

ORDERED that defendant, the Town of Harrison, shall be and hereby is adjudged liable to Plaintiffs for additional legal fees totaling \$14,457.00 during August, September, October and November 2010 and costs and disbursements totaling \$230.00, for the total amount of \$14,687.00 for August, September, October and November 2010;

IT IS FURTHER ORDERED that the Town of Harrison shall pay the aforesaid sum(s) to Plaintiffs within 60 days of the date hereof;

IT IS FURTHER ORDERED that Plaintiffs shall be permitted to hereafter apply for additional attorneys fees and costs which may be incurred by Plaintiffs for all periods subsequent to November 30, 2010, and Plaintiffs may make such application by submitting one or more Supplemental Affidavits of Services pursuant to Rule 4:42-9(b), and such fees and costs shall thereupon be adjudged to also be due and owing to Plaintiffs;

IT IS FURTHER ORDERED that Plaintiffs' counsel shall serve a copy of this Order upon opposing counsel within 7 days of receipt hereof.


HON. BERNADETTE DECASTRO, J.S.C.