

John Ritterson, Chairman
Sherrod Middleton, Clerk
Vivian Cottrell, Treasurer
Douglas Krushinski, Commissioner
Lewis Pinnella, Commissioner



FRANKLIN TOWNSHIP
FIRE DISTRICT 3

138 Shevchenko Avenue
Somerset, New Jersey, 08873

Phone: (732)249-0308
Fax: (732)249-6186

June 25, 2014

John Paff,
c/o paff@pobox.com

Re: June 19, 2014 OPRA Request

Dear Mr. Paff,

The Fire District is in receipt of your supplemental June 19, 2014 Open Public Records Act request seeking various court documents

Specifically, your June 19, 2014 requests seeks the below materials. Following each is the Township's response.

1. Settlement agreements that resolved Gilliam's claims against the individual defendants (e.g. the Krushinski brother, etc).

Response: No document exists to date. Since the District and the Fire Company were dismissed from the litigation, it is unlikely that the District will ever be in possession of a document between private parties. A proper future request should be made to the Insurance Carrier's records custodian should that document exist.

2. Any record in which the fire district agreed to indemnify or refused to indemnify any of the individual defendants for their legal expenses and damages arising out of the lawsuit.

Response: No document exists responsive to this request.

3. The brief that was filed in support of Community's motion for summary judgment that was filed on or about 01/15/14.

Response: Attached.

4. Gilliam's objection to the summary judgment motion filed on or about 02/18/14.

Response: Attached.

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5. Community's brief filed on or about 02/25/14.

Response: Attached.

6. The court's order that resolved the summary judgment motion.

Response: Attached.

7. The court's written decision supporting the order responsive to #6.

Response: No document exists responsive to this request.

8. The brief that was filed in support of Community's motion for reconsideration that was filed on or about 03/26/14.

Response: Attached.

9. Gilliams's objection to the reconsideration motion.

Response: Attached.

10. The order that resolved the reconsideration motion.

Response: Attached.

11. The court's written decision supporting the order responsive to #10.

Response: No document exists responsive to this request.

12. The 06/02/14 Order Dismissal or settlement

Response: Attached.

Therefore, based on the above, Items 3 through 6, 8-10 and 12 are provided electronically. Items 1, 2, 7 and 11 do not exist in the District's file. Pursuant to Paff v. N.J. Dept. of Labor, 392 N.J. Super. 334, 341 (App. Div. 2007), please accept this letter as my certification of diligent inquiry.

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When I received your request, I undertook a search to identify if the documents were contained in the office. They were not. I spoke with George Morris, the District Solicitor. As Mr. Morris was recently appointed, he had not been provided any litigation materials to date. Mr. Morris directed me to contact prior counsel and any counsel assigned by our insurance company to see if they had a copy of the requested materials. I learned the matter was assigned to Post & Schell, P.C. to represent the District. I contacted counsel and received the documents which are attached to this response. Counsel informed me that no settlement agreement yet exists, that no indemnification documents were ever drafted or executed and that no written opinions were entered. As noted above, it is unlikely that the District will ever be in possession or have access to the settlement agreement of private parties. The District's assumption is that the settlement between those parties, once entered by the Court will be filed with the insurance fund. We believe, but are not certain, that the insurance fund has its own records custodian. Further, you may be able to obtain the document(s) directly from the Court.

As to the four-part test established in Paff, I certify to the following:

- (1) the search undertaken to satisfy request: *See above details*
- (2) the documents found that are responsive to the request: *Provided as indicated.*
- (3) the determination of whether the document or any part thereof is confidential and the source of the confidential information: *Not relevant, documents are filed with the Court and available unless sealed by the Court.*
- (4) a statement of the District's document retention/destruction policy and the last date on which documents that may have been responsive to the request were destroyed: *No documents were received, possessed, made or maintained responsive to this request until the time of the request, therefore no documents have existed which could have been destroyed. The District follows the State guidelines for retention of documents.*

As you are aware, if your request for access to a government record has been denied or unfilled within the seven (7) business days required by law, you have a right to challenge this decision. At your option, you may either institute a proceeding in the Superior Court of New Jersey or file a complaint with the Government Records Council ("GRC") by completing the Denial of Access Complaint Form. You may contact the GRC by toll-free telephone at 866-850-0511, by mail at P.O. Box 819, Trenton, NJ, 08625, by e-mail at grc@dca.state.nj.us, or at their web site at www.state.nj.us/grc. The Council can also answer other questions about the law. All questions regarding complaints filed in Superior Court should be directed to the Court Clerk in your County.

Sincerely,


Sherrod Middleton
Clerk