

CARBONE AND FAASSE
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ATTORNEYS FOR PLAINTIFFS

UNITEHERE LOCAL 54 and	:	SUPERIOR COURT OF NEW JERSEY
BEN BEGLEITER,	:	LAW DIVISION, ATLANTIC COUNTY
	:	DOCKET NO.
Plaintiffs,	:	
vs.	:	<u>Civil Action</u>
	:	
ROSEMARY ADAMS, in her official	:	
capacity as the City Clerk of the City of	:	VERIFIED COMPLAINT
Atlantic City, and ATLANTIC CITY,	:	
a political subdivision of the State of	:	
New Jersey,	:	
	:	
Defendants.	:	

Plaintiffs, Ben Begleiter and UniteHere Local 54, by way of verified complaint against the Defendants Rosemary Adams and Atlantic City, states as follows:

PRELIMINARY STATEMENT

1. This is an action under the Open Public Records Act ("OPRA"), N.J.S.A. 47:1A-6, and the common law right of access to records, challenging the Defendants' denial of access to the Economic Redevelopment and Growth Grant Application of Revel Entertainment Group, LLC and similar classes of records and documents and Defendants' failure to give any written reason for that denial of access.

PARTIES

2. Plaintiff Ben Begleiter (hereinafter referred to as "Plaintiff Begleiter") is a resident of Atlantic County and is employed by and at all times mentioned herein acted on behalf

of Plaintiff UniteHere Local 54 (hereinafter referred to as "Plaintiff UniteHere") with offices located at 203 Sovereign Avenue, Atlantic City, New Jersey.

3. Defendant Atlantic City (hereinafter referred to as "Defendant City") is a political subdivision of the State of New Jersey.

4. Defendant Rosemary Adams (hereinafter referred to as "Defendant Adams") is the City Clerk of the City of Atlantic City and is the Records Custodian for the Defendant City.

FIRST COUNT

5. Plaintiffs repeat the allegations stated above as if set forth at length herein.

6. On December 3, 2009, Defendant Adams received from Plaintiff Begleiter a request for records, a copy of which is attached hereto as Exhibit A

7. Defendant Adams did not provide access to the requested records, did not respond to the request and did not deny the request within seven (7) business days.

8. Defendant Adams did not supply Plaintiff Begleiter with a City Records Request Response.

9. Defendant Adams went beyond the mandatory deadline for responding to an OPRA request and after passage of Ordinance 70 of 2009 provided documents on January 5, 2010 which were not responsive to the request. See paragraph 2 of Exhibit D.

10. On January 5, 2010, Plaintiff Begleiter immediately made a second OPRA request (hereinafter referred to as "Second Request") for access and records relating to the "Redevelopment Incentive Grants" discussed in Ordinances 69 and 70 of 2009. (See Exhibit B)

11. Defendant Adams failed to give access or produce documents in response or otherwise respond to Plaintiff Begleiter's Second Request within seven (7) business days.

12. Defendant City adopted Ordinance 2B of 2010 on January 27, 2010 which was identical to Ordinance 69 of 2009.

13. On January 27, 2010, Plaintiff Begleiter submitted another OPRA request (hereinafter referred to as "Third Request") seeking access and documents with a detailed attachment identifying with specificity the access and documents sought. See Exhibit C.

14. The Third Request set February 1, 2010 as the day Plaintiff Begleiter would appear to access and review said documents.

15. On February 1, 2010, Plaintiff Begleiter went to City Hall and was informed by Defendant Adams that "there are no documents available yet for inspection."

16. On February 3, 2010, Plaintiff Begleiter mailed a letter to Defendant Adams reviewing the three (3) OPRA requests. See Exhibit D.

17. On February 9, 2010, many days after the seven (7) business day deadline for his Third Request, Plaintiff Begleiter was advised by letter from Defendant Adams dated February 4, 2010 that his request was "over broad and vague" and contained a cryptic reference to conducting research among the records. See Exhibit E.

18. Defendants City and Adams have not properly or lawfully handled the requests in accordance with the OPRA statutes, produced documents or allowed access to documents and records.

19. The Defendants City and Adams denial of access to the requested records violated OPRA, N.J.S.A. 47:1A-1, -5.

WHEREFORE, Plaintiff demands judgment against Defendants as follows:

A. Declaring that the Defendants City and Adams violated OPRA, N.J.S.A. 47:1A-1, -5, by failing to (a) respond to the OPRA requests within the mandated response time, (b) provide access to the requested documents, and (c) provide copies of the requested documents;

B. Enjoining the Defendants City and Adams from failing to provide Plaintiff with access and copies of the requested documents;

C. Ordering Defendants to immediately release and provide Plaintiff with full and complete access and copies of the requested documents;

D. Imposing a civil penalty of \$1,000.00 upon Defendant Adams for each OPRA violation;

E. Awarding costs and attorney's fees; and

F. For such other relief as the Court deems equitable and just.

SECOND COUNT

20. Plaintiff repeats the allegations stated above as if set forth at length herein.

21. Defendants City and Adam's failure to provide Plaintiff Begleiter with access and copies of the requested documents violated the common law right of access to public records.

WHEREFORE, Plaintiffs demand judgment against Defendants City and Adams as follows:

A. Declaring that the Defendants City and Adams violated the common law right of access to public records by refusing to (a) provide access to the requested documents and (b) provide copies of the requested documents;

B. Enjoining the Defendants City and Adams from failing to provide Plaintiff with access and copies of the requested documents;


C. Ordering Defendants to immediately release and provide Plaintiff with full and complete access and copies of the requested documents;

D. Imposing a civil penalty of \$1,000.00 upon Defendant Adams for each OPRA violation;

E. Awarding costs and attorney's fees; and

F. For such other relief as the Court deems equitable and just.

CARBONE AND FAASSE
Attorneys for Plaintiffs


BY: John M. Carbone
A Member of the Firm

Date: March 8, 2010.

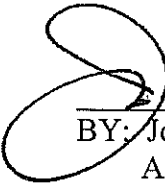
DESIGNATION OF TRIAL COUNSEL

Plaintiffs hereby designate John M. Carbone, Esq. as trial counsel pursuant to R. 4:25-4.

CERTIFICATION

Certification is hereby made pursuant to the provisions of R. 4:5-1 that the within matter is not the subject of any other action pending in any Court or of a pending arbitration proceeding nor is any other action or arbitration proceeding contemplated, at the present time. It is not anticipated at this time that there is any other party who should be joined in this action.

CARBONE AND FAASSE
Attorneys for Plaintiffs


BY: John M. Carbone
A Member of the Firm

Date: March 8, 2010.