



OFFICE OF THE COUNTY COUNSEL

Hall of Records, Room 535, Newark, New Jersey 07102

973.621.5003 --- 973.621.4599 (Fax)

Joseph N. DiVincenzo, Jr.

Essex County Executive

Courtney M. Gaccione

Essex County Counsel

October 21, 2019

H. Li
drhli1971@gmail.com

Re: OPRA Request #3792, "Animal Deaths at Turtle Back Zoo"

Dear Mr. Li,

The OPRA Office of Essex County Counsel received your Open Public Records Act (OPRA) request on September 25, 2019. An extension of seven (7) business days was applied to your request as more time was needed to compile the records responsive to your request, making the most current due date for the County's response October 11, 2019. Your request was described as "Animal Deaths at Turtle Back Zoo" and sought access to the following:

"Please provide copies of all reports and records relating to animal deaths at the Turtleback Zoo since 1/1/2015. Thank you."

It is well established that OPRA allows a custodian of records to either deny access to or redact that information which is exempt from access, under OPRA or any other law. Truland v. Borough of Madison, GRC Complaint No. 2006-88 (September 2007).

With respect to the medical records of animals kept by a veterinarian, N.J.A.C. 13:44-4 provides some guidance. Chapter 44, "State Board of Veterinary Medical Examiners," Subchapter 4 sets forth the General Rules of Practice for licensed veterinarians in New Jersey. Specifically,

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N.J.A.C. 13:44-4.9(a) requires that a licensed vet keep a separate “patient record” for each animal seen that notes the treatment rendered. Subsections 1 through 11 identify specific information that has to be kept in these patient records. More importantly, N.J.A.C. 13:44-4.9(b) provides:

“A licensed veterinarian shall keep records confidential unless:

1. The licensed veterinarian is required by law to release the records;
2. The Board requests the records;
3. The client, at the time services were rendered by the licensed veterinarian, authorizes the licensed veterinarian to release the records; or
4. It becomes necessary to release information in the records in order to protect the health of a person, the animal that is the subject of the records or another animal.”

N.J.A.C. 13:44-4.9(b).

In addition, the website for the New Jersey State Board of Veterinary Medical Examiners (<https://www.njconsumeraffairs.gov/vet/Pages/regulations.aspx>) corroborates the applicability of above statutory citations, namely N.J.A.C. 13:44-4. Please note that under the “Statutes and Regulations” tab, N.J.A.C. 13:44-4 is specifically referenced.

As none of the exceptions mentioned in N.J.A.C. 13:44-4.9(b) presently apply, the records you have requested remain confidential. Accordingly, your request for “copies of all reports and records relating to animal deaths at the Turtleback Zoo since 1/1/2015” is denied and the request is considered closed.

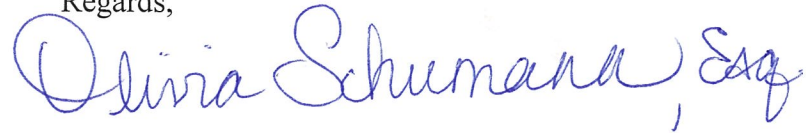
If your request for access to a government record has been denied or unfilled within the seven (7) business days required by law, you have a right to challenge the decision by the OPRA Office of Essex County to deny access. At your option, you may either institute a proceeding in the Superior Court of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

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questions about the law. All questions regarding complaints filed in Superior Court should be directed to the Court Clerk in your County.

Regards,

A handwritten signature in blue ink that reads "Olivia Schumann, Esq." The signature is written in a cursive style with a large initial 'O'.

Olivia Schumann, Esq.
OPRA Custodian of Records
Assistant County Counsel
oprarequests@counsel.essexcountynj.org

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