

March 9, 2016

VIA UPS OVERNIGHT

Clerk, Superior Court of New Jersey
Monmouth County Courthouse
71 Monument Park
Freehold, New Jersey 07728

**Re: Joy DeSanctis v. Borough of Belmar and April Claudio, in her official capacity as
Municipal Clerk and Custodian of Records for the Borough of Belmar
Our File No. 1605-001**

Dear Sir/Madam:

On behalf of Plaintiff Joy DeSanctis, I enclose herewith an original and one copy of the following documents in the above-mentioned matter:

1. Civil Case Information Statement;
2. Verified Complaint with Exhibits;
3. Order to Show Cause; and
4. Letter Brief in Support of Order to Show Cause;

Kindly charge our Collateral Account #141905 with any fees related to this filing. Please return a filed copy of each document to us in the enclosed self-addressed, stamped envelope.

Thank you for attention to this matter.

Very truly yours,





CJ GRIFFIN

CJG:jj
Enclosures

cc: Hon. Lisa P. Thornton, A. J.S.C. (Courtesy Copy, Via UPS Overnight Mail)

Appendix XII-B1

	CIVIL CASE INFORMATION STATEMENT (CIS) Use for initial Law Division Civil Part pleadings (not motions) under <i>Rule 4:5-1</i> Pleading will be rejected for filing, under <i>Rule 1:5-6(c)</i>, if information above the black bar is not completed or attorney's signature is not affixed		FOR USE BY CLERK'S OFFICE ONLY	
			PAYMENT TYPE: <input type="checkbox"/> CK <input type="checkbox"/> CG <input type="checkbox"/> CA	
			CHG/CK NO.	
			AMOUNT:	
		OVERPAYMENT:		
		BATCH NUMBER:		
ATTORNEY / PRO SE NAME CJ Griffin, Esq.		TELEPHONE NUMBER (201) 488-8200		COUNTY OF VENUE Monmouth
FIRM NAME (if applicable) Pashman Stein, P.C.			DOCKET NUMBER (when available) MON-L-	
OFFICE ADDRESS Court Plaza South 21 Main Street, Suite 200 Hackensack, New Jersey 07601			DOCUMENT TYPE Verified Complaint & OTSC	
			JURY DEMAND <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
NAME OF PARTY (e.g., John Doe, Plaintiff) Joy DeSanctis		CAPTION Joy DeSanctis vs. Borough of Belmar and April Claudio, in her official capacity as Municipal Clerk and Custodian of Records for the Borough of Belmar		
CASE TYPE NUMBER (See reverse side for listing) 802	HURRICANE SANDY RELATED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IS THIS A PROFESSIONAL MALPRACTICE CASE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53 A -27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.		
RELATED CASES PENDING? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, LIST DOCKET NUMBERS		
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) <input type="checkbox"/> NONE <input checked="" type="checkbox"/> UNKNOWN		
THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.				
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION				
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, IS THAT RELATIONSHIP: <input type="checkbox"/> EMPLOYER/EMPLOYEE <input type="checkbox"/> FRIEND/NEIGHBOR <input type="checkbox"/> OTHER (explain) <input type="checkbox"/> FAMILIAL <input type="checkbox"/> BUSINESS		
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO				
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION				
According to N.J.S.A. 47:1A-6, this lawsuit should be assigned to the designated OPRA judge. Furthermore, the lawsuit "shall proceed in a summary or expedited manner."				
 DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION		
WILL AN INTERPRETER BE NEEDED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, FOR WHAT LANGUAGE?		
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).				
ATTORNEY SIGNATURE:				



CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial pleadings (not motions) under *Rule 4:5-1*

CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

Track I - 150 days' discovery

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT (debt collection matters only)
- 505 OTHER INSURANCE CLAIM (including declaratory judgment actions)
- 506 PIP COVERAGE
- 510 UM or UIM CLAIM (coverage issues only)
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (summary action)
- 999 OTHER (briefly describe nature of action)

Track II - 300 days' discovery

- 305 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 603N AUTO NEGLIGENCE - PERSONAL INJURY (non-verbal threshold)
- 603Y AUTO NEGLIGENCE - PERSONAL INJURY (verbal threshold)
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE - PROPERTY DAMAGE
- 621 UM or UIM CLAIM (includes bodily injury)
- 699 TORT - OTHER

Track III - 450 days' discovery

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 602 ASSAULT AND BATTERY
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES

Track IV - Active Case Management by Individual Judge / 450 days' discovery

- 156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 513 COMPLEX CONSTRUCTION
- 514 INSURANCE FRAUD
- 620 FALSE CLAIMS ACT
- 701 ACTIONS IN LIEU OF PREROGATIVE WRITS

Multicounty Litigation (Track IV)

- | | |
|--|---|
| 271 ACCUTANE/ISOTRETINOIN | 290 POMPTON LAKES ENVIRONMENTAL LITIGATION |
| 274 RISPERDAL/SEROQUEL/ZYPREXA | 291 PELVIC MESH/GYNECARE |
| 278 ZOMETHA/ARELIA | 292 PELVIC MESH/BARD |
| 279 GADOLINIUM | 293 DEPUY ASR HIP IMPLANT LITIGATION |
| 281 BRISTOL-MYERS SQUIBB ENVIRONMENTAL | 295 ALLODERM REGENERATIVE TISSUE MATRIX |
| 282 FOSAMAX | 296 STRYKER REJUVENATE/ABG II MODULAR HIP STEM COMPONENTS |
| 285 STRYKER TRIDENT HIP IMPLANTS | 297 MIRENA CONTRACEPTIVE DEVICE |
| 286 LEVAQUIN | 299 OLMESARTAN MEDOXOMIL MEDICATIONS/BENICAR |
| 287 YAZ/YASMIN/OCELLA | 300 TALC-BASED BODY POWDERS |
| 288 PRUDENTIAL TORT LITIGATION | 601 ASBESTOS |
| 289 REGLAN | 623 PROPECIA |

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category ☐ Putative Class Action ☐ Title 59

PASHMAN STEIN
A Professional Corporation
Court Plaza South
21 Main Street, Suite 200
Hackensack, NJ 07601
(201) 488-8200
CJ GRIFFIN (#031422009)

Attorneys for Plaintiff,
Joy DeSanctis

JOY DESANCTIS,

Plaintiff,

v.

BOROUGH OF BELMAR AND APRIL:
CLAUDIO in her official capacity as Municipal:
Clerk and Custodian of Records for the Borough:
of Belmar,

Defendants.

: SUPERIOR COURT OF NEW JERSEY
: LAW DIVISION: MONMOUTH COUNTY
:
: DOCKET NO.:
:
:

Civil Action

ORDER TO SHOW CAUSE

THIS MATTER being brought before the court by Pashman Stein, a Professional Corporation, attorneys for Plaintiff Joy DeSanctis, CJ Griffin, Esq. appearing, seeking relief by way of summary action pursuant to R. 4:67-1(a), based upon the facts set forth in the Verified Complaint filed herewith; and the court having determined that this matter may be commenced by Order to Show Cause as a summary proceeding pursuant to common law right of access, and for good cause shown:

IT IS on this _____ day of _____, 2016, **ORDERED** that Defendants Borough of Belmar and April Claudio, in her official capacity as Municipal Clerk and Custodian of Records for the Borough of Belmar, shall appear and show cause on the _____ day of _____, 2016 before the Superior Court at the Monmouth County Courthouse in

Freehold, New Jersey at _____ a.m./p.m., or as soon thereafter as counsel can be heard, why judgment should not be entered:

1. Declaring said actions of Defendants to be in violation of the common law right of access for failing to search for government records and failing to grant access to e-mail correspondence identified in the Verified Complaint;

2. Ordering Defendants to search for e-mail correspondence responsive to Plaintiff's OPRA request and release the requested records pursuant to the common law.

3. In the alternative, directing Defendants to provide all public records responsive to Plaintiff's request to the Court *in camera* and then require Defendants to delete or excise from the records the portion(s), if any, that are exempt from public access and promptly permit access to the remainder of the record;

4. Ordering Defendants to preserve the requested record pending resolution of these proceedings or as otherwise required by law;

5. Awarding counsel fees and costs of suit; and

6. For such other relief as the Court may deem just and equitable.

AND IT IS FURTHER ORDERED that:

1. A copy of this Order to Show Cause, Verified Complaint and all supporting affidavits or certifications submitted in support of this application be served upon Defendants personally or by Certified Mail, Return Receipt Requested, within ____ days of the date this order was received by Plaintiff, in accordance with R. 4:4-3 and R. 4:4-4, this being original process.

2. The Plaintiff must file with the court its proof of service of the pleadings on the Defendants no later than three (3) days before the return date.

3. The Court will conduct a case management conference via telephone on _____, 2016 at _____ a.m/p.m. Plaintiff shall initiate the call. Defendants shall produce contact information to Plaintiff by _____.

4. Defendants shall file and serve a written answer and opposition papers to this Order to Show Cause and the relief requested in the Verified Complaint and proof of service of the same by _____, 2016. The opposition papers must be filed with the Clerk of the Superior Court in the county listed above and a copy of the papers must be sent directly to the chambers of Judge _____. The papers must be served upon Plaintiff this same date.

5. The Plaintiff must file and serve any written reply to the Defendants' opposition to the Order to Show Cause by _____, 2016. The reply papers must be filed with the Clerk of the Superior Court in the county listed above and a copy of the reply papers must be sent directly to the chambers of Judge _____. The papers must be served upon Defendant this same date.

6. If the Defendants do not file and serve opposition to this Order to Show Cause, the application will be decided on the papers on the return date and relief may be granted by default, provided that the Plaintiff files a proof of service and a proposed form of order at least three days prior to the return date.

7. If Plaintiff has not already done so, a proposed form of order addressing the relief sought on the return date (along with a self-addressed return envelope with return address and postage) must be submitted to the Court no later than three (3) days before the return date.

8. Defendants take notice that the Plaintiff has filed a lawsuit against you in the Superior Court of New Jersey. The Verified Complaint attached to this Order to Show Cause states the basis of the lawsuit. If you dispute this complaint, you, or your attorney, must file a

written answer and opposition papers and proof of service before the return date of the order to show cause.

These documents must be filed with the Clerk of the Superior Court in the county listed above. A directory of these offices is available in the Civil Division Management Office in the county _____ listed _____ above _____ and _____ online _____ at <http://www.judiciary.state.nj.us/prose/10153deptyclerklawref.pdf>. Include a \$175 filing fee payable to the "Treasurer State of New Jersey." You must also send a copy of your Answer and opposition papers to the plaintiff's attorney whose name and address appear above, or to the Plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve your answer and opposition papers (with the fee) or judgment may be entered against you by default.

9. If you cannot afford an attorney, you may call the Legal Services office in the county in which you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529). If you do not have an attorney and are not eligible for free legal assistance you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Management Office in the county listed above and online at <http://www.judiciary.state.nj.us/prose/10153deptyclerklawref.pdf>.

10. The Court will entertain argument, but not testimony, on the return date of the Order to Show Cause, unless the Court and parties are advised to the contrary no later than _____ days before the return date.

,J.S.C.

March 9, 2016

Hon. Lisa F. Thornton, A.J.S.C.
Monmouth County Courthouse
71 Monument Park, PO Box 1266, 3rd Floor
Freehold, New Jersey 07728

***Re: Joy DeSanctis v. Borough of Belmar and April Claudio, in her official capacity
as Municipal Clerk and Custodian of Records for the Borough of Belmar
Our File No. 1605-001***

Dear Judge Thornton:

This firm represents Plaintiff, Joy DeSanctis, in the above-captioned matter. Please accept this letter brief, in lieu of a more formal brief, in support of Plaintiff's application for an Order to Show Cause seeking relief from Defendants' denial of the Open Public Records Act ("OPRA") request identified in the Verified Complaint and discussed in detail below.

PRELIMINARY STATEMENT

On February 5, 2016, Plaintiff submitted a request for public records pursuant to OPRA and the common law right of access to Defendants. Specifically, Plaintiff's request sought "Copies all correspondence (letters, e-mails, faxes, and memorandums) between Belmar and FEMA regarding Super Storm Sandy Funds from October 29, 2012 to present date" and "Copies all correspondence (letters, e-mails, faxes, and memorandums) between Belmar and FEMA regarding construction of the all the (sic) pavilion from October 29, 2012 to present date."

That same day, the Custodian responded to Plaintiff's request stating that Plaintiff's request was invalid because did not provide the exact "To," "From" and subject matter of the correspondence requested. Plaintiff and the Custodian engaged in multiple communications back and forth, with Plaintiff insisting that her request was valid and the Custodian insisting it was not. Ultimately, Defendants produced two written letters that were responsive to Plaintiff's

OPRA request, but refused to search for e-mail correspondence because they believe the request is invalid. Defendants' position is erroneous, as case law demonstrates that Plaintiff's request is sufficiently specific. Defendants, with personal knowledge of who from Belmar communicates with FEMA, have sufficient information to search their e-mail for records responsive to Plaintiff's OPRA request.

STATEMENT OF FACTS

Background Information

On October 29, 2012, Hurricane Sandy made landfall with New Jersey and caused catastrophic and devastating damage across the state and all across the Northeast. Belmar was one of the New Jersey shore towns that endured overwhelming damage due to the storm. Specifically, Belmar's beach pavilions were destroyed during the storm. In the time that has lapsed since Hurricane Sandy, Belmar, like many shore communities, has been working to recover from the Hurricane. [Exhibit A to the Verified Complaint.]

Through the course of rebuilding a contentious issue has arisen relating to Belmar officials' announcement in 2013 to rebuild three of its four oceanfront pavilions. The announcement was met with great opposition from hundreds of borough residents who argued that the plan was too expensive and required a public vote. Soon thereafter, in response to the strong opposition to the plans, the Mayor announced that the project would be scaled back to just two of the Belmar pavilions. Plaintiff is one of many advocates who has ardently fought to ensure that the rebuilding of Belmar's pavilions be built according to the standards set forth by Federal Emergency Management Administration ("FEMA") and the Belmar municipal code and within the budgetary amount that would be covered by FEMA. [Exhibit A.]

Plaintiff has written a number of opinion editorials on this issue for the Asbury Park Press arguing that the allocated FEMA budget of \$2.9 million is sufficient to rebuild the pavilion, “[t]he rebuilding is in the V-1 zone (highest hazard) and FEMA is obligated, although I feel foolishly, to the \$2.9 million to rebuild it. That is the amount. Spend that amount and start rebuilding tomorrow. Scale it back to a functional building that services beachgoers with a small meeting area for events...If we cannot rebuild with \$2.9 million it should not be rebuilt, as residents will bear the tax burden. If it cannot be rebuilt with \$2.0 million, it will be the fault of the mayor and council. Spending \$4.1 million to build one pavilion is not acceptable, and borrowing to overbuild is irresponsible.” [Exhibit B]

The Borough of Belmar originally introduced an ordinance to bond for more than \$7.1 million to help cover the \$7.5 million projected to rebuild two of Belmar’s pavilions. The Borough Mayor and Council of Belmar represented to the community that the expense would be covered by a proposed increase in beach tags fees and promised that “not a dime” of the cost to rebuild would come from the taxpayers, even if FEMA did not reimburse Belmar for any of the rebuilding expenses. In 2014 Belmar residents blocked a referendum that proposed for borrowing \$7 million to rebuild three of Belmar’s pavilions destroyed during Hurricane Sandy. On November 4, 2015, Belmar residents approved a bond ordinance to borrow \$4.1 million to rebuild one of the pavilions destroyed during Hurricane Sandy. [Exhibit A.]

In the time elapsed since Hurricane Sandy, Plaintiff has tirelessly fought for transparency to determine exactly how much of the funding for the pavilion projects would be coming from FEMA, how the remaining balance for the pavilion rebuilds would be funded and what the rebuild plans specifically call for.

Plaintiff’s February 5, 2016 OPRA Request

On February 5, 2016, Plaintiff submitted a request to Defendants, pursuant to OPRA and the common law right of access seeking:

1. Copies all correspondence (letters, e-mails, faxes, and memorandums) between Belmar and FEMA regarding Super Storm Sandy Funds from October 29, 2012 to present date. Please include attachments.
2. Copies all correspondence (letters, e-mails, faxes, and memorandums) between Belmar and FEMA regarding construction of the all the (sic) pavilion from October 29, 2012 to present date. Please include attachments."

[Exhibit C to Verified Complaint.]

On February 5, 2016, Defendant Claudio responded to Plaintiff and stated, "If you wish to request emails you must provide the following in your request: **To** (specific name or email address), **From** (specific name or email address), **Subject**, **Date(s)**." (emphasis in original.)

[Exhibit C.]

Plaintiff responded to Defendant's email that same day, February 5th, and stated: "I do not NEED to tell you the "to" and the "from" (I can tell you either/or), but I actually did: correspondence sent between FEMA and the Boro. I also told you the subject, "superstorm sandy funds" and "construction of the pavilion." And I provided a date range. Please product (sic) the records." [Exhibit D to Verified Complaint.]

Minutes later, on February 5, 2016, Defendant Claudio again emailed Plaintiff demanding further information in order to process the request: "As per the GRC when requesting emails you have to provide to and from we cannot speculate whose emails you want. Saying boro and FEMA is too broad." [Exhibit E to Verified Complaint.]

Plaintiff emailed Defendants again objecting to the demand for further information, stating: "I cannot possibly know the identity of who is working on the Boro's FEMA matters,

nor the names of the FEMA persons working on the Boro's matters on their end. I am asking for all correspondence between the Boro and FEMA regarding a specific subject matter. Please provide it to me or I will file with the GRC." [Exhibit F to Verified Complaint.]

On February 16, 2016, Defendant Claudio responded to Plaintiff with the following:

In response to your request we have found two letters:

1. Dated May 8, 2014 from Lt. Patrick Gorman
2. Dated April 24, 2014 from John Covell

As previously stated to you, we are unable to search for emails since you did not clearly specify To and From. Simply stating emails between the Borough and FEMA does not tell me whose emails you wish to obtain. If you'd like you may submit more details or submit another request.

[Exhibit G to Verified Complaint.]

While Defendants produced two letters responsive to Plaintiff's OPRA request, they refuse to search for e-mail correspondence because they erroneously insist that Plaintiff must identify a specific individual in the "to" and "from" fields of the e-mail.

LEGAL ARGUMENT

I. DEFENDANTS HAVE VIOLATED THE OPEN PUBLIC RECORDS ACT BY DENYING PLAINTIFF'S REQUEST FOR E-MAIL CORRESPONDENCE BETWEEN BELMAR OFFICIALS AND FEMA RELATING TO THE BELMAR PAVILIONS AND HURRICANE SANDY FUNDS

OPRA reflects New Jersey's "history of commitment to public participation in government" and its "tradition favoring the public's right to be informed about governmental actions." South Jersey Pub. Co. Inc. v. N.J. Expressway Auth., 124 N.J. 478, 486-87 (1991). The statute's "purpose is 'to maximize public knowledge about public affairs and to minimize the evils inherent in a secluded process.'" Mason v. City of Hoboken, 196 N.J. 51, 64 (2008) (quoting Lakewood Residents Assoc., Inc. v. Twp. of Lakewood, 294 N.J. Super. 207, 225

(Law Div. 1994)). A citizen's right to access public records has been deemed "unfettered" absent a statutory exemption. Courier News v. Hunterdon County Prosecutor's Office, 358 N.J. Super. 373, 382-83 (App. Div. 2003). Accordingly, pursuant to OPRA,

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 interest, and **any limitations on the right of access accorded by [OPRA] shall be construed in favor of the public's right of access.** . . .

[N.J.S.A. 47:1A-1 (emphasis added).]

It is thus the public agency's burden to prove that denial of access is authorized by law. N.J.S.A. 47:1A-6.

A. The Correspondence at issue are "Government Records" Subject to OPRA

Under OPRA, the first question to be addressed is whether the requested records are, in fact, government records. OPRA broadly defines the term to include:

[A]ny 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 his or its official business by any officer, commission, agency or authority of the State or of any political subdivision thereof, including subordinate boards thereof, or that has been received in the course of his or its official business by any such officer, commission, agency, or authority of the State or of any political subdivision thereof, including subordinate boards thereof. The terms shall not include inter-agency or intra-agency advisory, consultative, or deliberative material.

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

This definition of "government records" applies to the records subject to Plaintiff's OPRA requests. The e-mails between Belmar's public officials and FEMA regarding funding are government records because they were certainly "made, maintained or kept on file in the course of [the Defendants'] official business." N.J.S.A. 47:1A-1.1.

B. Defendant's Violated OPRA by Refusing to Search for Records Responsive to Plaintiff's OPRA Request and Failing to Grant Access to Responsive Records

OPRA requires that government records “be readily accessible” and produced within seven (7) business days of a valid request. N.J.S.A. 47:1A-1.1 and 5(i). To date, Plaintiff still has not received the requested e-mail correspondence and Defendants have refused to even search for responsive records because they maintain that Plaintiff’s request was not sufficiently specific. Plaintiff’s request, however, was valid. The Custodian’s insistence that Plaintiff provide a precise name of sender or recipient and a more detailed subject matter is contrary to published case law.

In Burke v. Brandes, 429 N.J. Super. 169 (2012), the plaintiff submitted a request that was remarkably similar to the request submitted by Plaintiff in this case. In Burke, the plaintiff’s requested sought records pertaining to “EZ Pass benefits afforded to retirees of the Port Authority, including all . . . correspondence between the Office of the Governor . . . and the Port Authority.” Id. at 172. The records custodian from the Governor’s Office denied the request on the basis that it was overbroad. The Appellate Division reversed the trial court and found that the request was not overbroad under OPRA. Specifically, the Appellate Division stated “[p]laintiff’s request here was confined to a specific subject matter that was clearly and reasonably described with sufficient identifying information, namely, E-Z Pass benefits provided to Port Authority retirees...the request was limited to particularized identifiable government records, namely, correspondence with another government entity, rather than information generally.” Id. at 176-77.

Similarly in Burnett v. County of Gloucester, 415 N.J. Super. 506 (App. Div. 2010), the Court found that a request seeking “any and all settlements, releases or similar documents entered into, approved or accepted from 1/1/2006 to present[,]” was sufficiently specific. Id. at

508-09. The Court found that even though the plaintiff did not specify legal matters to which the settlements related it “did not render his request a general request for information obtained through research, rather than a request for a specific record.” Id. at 513-14.

Plaintiff’s request here was in line with what was found to be valid in Burke and Burnett. Plaintiff sought a specific type of record (e-mails) pertaining two specific subject matters (Super Storm Sandy Funds and the construction of the pavilion) between two government agencies (Belmar and FEMA) during a specific timeframe (October 29, 2012 to present date). Defendants insist that Plaintiff needed to provide the exact name of the specific public official who communicated with FEMA, but such is simply not true pursuant to Burke. As Plaintiff noted, she has no ability to know which Belmar official is communicating with which FEMA official—but Belmar has that information easily available to them. Indeed, Plaintiff’s request also sought written correspondence without naming any specific individuals and Defendants were able to quickly determine who at Belmar communicated with FEMA and as a result they produced two letters that were responsive to that request. [Exhibit G to Verified Complaint.] At the same time, they refuse to even search for e-mail correspondence and state that Plaintiff was not specific enough.

This Court should compel Defendants to conduct a search of its e-mails and produce records that are responsive to Plaintiff’s OPRA request. The Court should also declare Plaintiff a prevailing party entitled to an award of attorneys’ fees because her litigation serves as the catalyst for bringing Defendants into compliance with the law. N.J.S.A. 47:1A-6.

II. DEFENDANTS HAVE VIOLATED THE COMMON LAW RIGHT OF ACCESS

At common law, a citizen has an enforceable right to require custodians of public records to make records available for reasonable inspection and examination. Irval Realty v. Bd. of Pub.

Util. Comm'rs, 61 N.J. 366, 372 (1972). Even where a plaintiff is denied access under OPRA, the documents may be available through the right to access under the common law. MAG Entertainment LLC v. Division of Alcoholic Beverage Control, 375 N.J. Super. 534, 543 (App. Div. 2005). The common law right to access a public record is determined by balancing the requestor's need for the record against the government's need for secrecy. Shuttleworth v. City of Camden, 258 N.J. Super. 573, 583 (App. Div. 1992). A requestor need not establish a personal interest as a public interest is sufficient. Id.

Here, Plaintiff has a clearly defined interest that overwhelming overrides any interest in confidentiality the government might hold, as the Plaintiff's primary reason for requesting the e-mail correspondence in question directly affects the public interest. Plaintiff's primary concern is ensuring transparency in how the rebuilding of the pavilions will be paid for and that the public will not be straddled with the significant cost of rebuilding the pavilions in question.

CONCLUSION

For the foregoing reasons, Plaintiff respectfully asks this Court to enforce his statutory rights under OPRA by 1) declaring that Defendants are in violation of OPRA by failing to search for government records and failing to provide access to the requested correspondence, 2) ordering Defendants to search for records responsive to Plaintiff's OPRA request and grant access to records that exist, and 3) awarding Plaintiff reasonable attorneys' fees and costs of suit.

Respectfully Submitted,



CJ Griffin

PASHMAN STEIN
A Professional Corporation
Court Plaza South
21 Main Street, Suite 200
Hackensack, NJ 07601
(201) 488-8200
CJ GRIFFIN (#031422009)

Attorneys for Plaintiff,
Joy DeSanctis

JOY DESANCTIS,	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION: MONMOUTH COUNTY
Plaintiff,	:	
	:	DOCKET NO.:
v.	:	
	:	
BOROUGH OF BELMAR AND APRIL	:	<u>Civil Action</u>
CLAUDIO in her official capacity as Municipal	:	
Clerk and Custodian of Records for the Borough	:	VERIFIED COMPLAINT
of Belmar,	:	
	:	
Defendants.	:	

Plaintiff, Joy DeSanctis, through her undersigned counsel, Pashman Stein, a Professional Corporation, complains against the Defendant as follows:

1. This is a summary action alleging violation of the Open Public Records Act ("OPRA") and the common law right of access to public records, seeking records from the Borough of Belmar and the Borough of Belmar Municipal Clerk, April Claudio.

PARTIES

2. Plaintiff Joy DeSanctis is taxpayer and resident and of Belmar, New Jersey.
3. Defendant Borough of Belmar ("Belmar") is a "public agency" as that term is defined by OPRA, N.J.S.A. 47:1A-1.1. Belmar's primary place of business is 601 Main Street, Belmar, New Jersey 07719.

4. Defendant April Claudio is the municipal clerk for the Borough of Belmar.

5. The Borough of Belmar and Defendant Claudio “make, maintain or ke[ep] on file,” or “receive in the course of...[their] official business” government records, and are thereby subject to the New Jersey Open Public Records Act, N.J.S.A. 47:1A-1 to -13.

VENUE

6. Venue is properly laid in Monmouth County because Defendants are located in Monmouth County and because the cause of action arose in Monmouth County. R. 4:3-2(a).

FACTUAL ALLEGATIONS

Background Information

7. On October 29, 2012, Hurricane Sandy made landfall with New Jersey and caused catastrophic and devastating damage across the state and all across the Northeast. Belmar was one of the New Jersey shore towns that endured overwhelming damage due to the storm. Specifically, Belmar’s beach pavilions were destroyed during the storm. In the time that has lapsed since Hurricane Sandy, Belmar, like many shore communities, has been working to recover from the Hurricane. [Attached hereto as Exhibit A are true and accurate copies of news articles regarding Hurricane Sandy and Belmar.]

8. Through the course of rebuilding a contentious issue has arisen relating to Belmar’s announcement in 2013 to rebuild three of its four oceanfront pavilions. The announcement was met with great opposition from hundreds of borough residents who argued that the plan was too expensive and required a public vote. Soon thereafter, in response to the strong opposition to the plans, the Mayor announced that the project would be scaled back to just two of the Belmar pavilions. [Exhibit A]

9. Plaintiff is one of many advocates who has ardently fought to ensure that the rebuilding of Belmar's pavilions be built in accordance with Federal Emergency Management Administration ("FEMA") and municipal code standards and within the budgetary amount that would be covered by FEMA.

10. Plaintiff has written a number of opinion editorials on this issue for the *Asbury Park Press* arguing that the allocated FEMA budget of \$2.9 million was sufficient to rebuild the pavilion, "[t]he rebuilding is in the V-1 zone (highest hazard) and FEMA is obligated, although I feel foolishly, to the \$2.9 million to rebuild it. That is the amount. Spend that amount and start rebuilding tomorrow. Scale it back to a functional building that services beachgoers with a small meeting area for events...If we cannot rebuild with \$2.9 million it should not be rebuilt, as residents will bear the tax burden. If it cannot be rebuilt with \$2.0 million, it will be the fault of the mayor and council. Spending \$4.1 million to build one pavilion is not acceptable, and borrowing to overbuild is irresponsible." [Attached hereto as Exhibit A is an August 6, 2015 article written by Plaintiff for the Asbury Park Press.]

11. The Borough of Belmar originally introduced an bond ordinance of more than than \$7.1 million to help cover the \$7.5 million projected to rebuild two of Belmar's pavilions. The Borough Mayor and Council of Belmar represented to the community that the expense would be covered by a proposed increase in beach tags fees and promised that "not a dime" of the cost to rebuild would come from the taxpayers, even if FEMA did not reimburse Belmar for any of the rebuilding expenses. [Exhibit A.]

12. In 2014, Belmar residents blocked a referendum that proposed borrowing \$7 million to rebuild three of Belmar's pavilions destroyed during Hurricane Sandy.

13. On November 4, 2015, Belmar residents approved a bond ordinance to borrow \$4.1 million to rebuild one of the pavilions destroyed during Hurricane Sandy. [Exhibit A.]

14. In the time that elapsed since Hurricane Sandy, Plaintiff has tirelessly fought for transparency to determine exactly how much of the funding for the pavilion projects would be coming from FEMA, how the remaining balance for the pavilion rebuilds would be funded and what the rebuild plans required. She has requested numerous government records from Belmar in search of her quest for information.

Plaintiff's February 5, 2015 OPRA Request

15. On February 5, 2016, Plaintiff submitted a request to Defendants, pursuant to OPRA and the common law right of access seeking:

1. Copies all correspondence (letters, e-mails, faxes, and memorandums) between Belmar and FEMA regarding Super Storm Sandy Funds from October 29, 2012 to present date. Please include attachments.
2. Copies all correspondence (letters, e-mails, faxes, and memorandums) between Belmar and FEMA regarding construction of the all the (sic) pavilion from October 29, 2012 to present date. Please include attachments."

[Attached hereto as Exhibit C is a true and accurate copy of Plaintiff's OPRA request submitted on February 5, 2016 (hereinafter referred to as the "February 5th OPRA request") and Claudio's February 6, 2016 e-mail in response.]

16. On February 5, 2016, Defendant Claudio responded to Plaintiff and stated, "If you wish to request emails you must provide the following in your request: **To** (specific name or email address), **From** (specific name or email address), **Subject**, **Date(s)**." (emphasis in original.) [Exhibit C.]

17. Plaintiff responded to Defendant's email that same day, February 5th, and stated: "I do not NEED to tell you the "to" and the "from" (I can tell you either/or), but I actually did:

correspondence sent between FEMA and the Boro. I also told you the subject, “superstorm sandy funds” and “construction of the pavilion.” And I provided a date range. Please product (sic) the records.” [Attached hereto as Exhibit D is a true and accurate copy of Plaintiff’s email to Claudio dated February 5, 2016.]

18. Minutes later, on February 5, 2016, Defendant Claudio again emailed Plaintiff demanding further information in order to process the request: “As per the GRC when requesting emails you have to provide to and from we cannot speculate whose emails you want. Saying boro and FEMA is too broad.” [Attached hereto as Exhibit E is a true and accurate copy of Claudio’s February 5, 2016 email.]

19. Plaintiff emailed Defendants again objecting to the demand for further information, stating: “I cannot possibly know the identity of who is working on the Boro’s FEMA matters, nor the names of the FEMA persons working on the Boro’s matters on their end. I am asking for all correspondence between the Boro and FEMA regarding a specific subject matter. Please provide it to me or I will file with the GRC.” [Attached hereto as Exhibit F is a true and accurate copy of Plaintiff’s February 5, 20216 email to Defendants objecting to the demand for further information.]

20. On February 16, 2016 Defendant Claudio responded to Plaintiff with the following:

In response to your request we have found two letters:

1. Dated May 8, 2014 from Lt. Patrick Gorman
2. Dated April 24, 2014 from John Covell

As previously stated to you, we are unable to search for emails since you did not clearly specify To and From. Simply stating emails between the Borough and FEMA does not tell me whose emails you wish to obtain. If you’d like you may submit more details or submit another request.

[Attached hereto as Exhibit G is a true and accurate copy of Defendants' email dated February 16, 2016, with attachments.]

21. While Defendants produced two letters responsive to Plaintiff's OPRA request, they refuse to search for e-mail correspondence because they erroneously insist that Plaintiff must identify a specific individual in the "to" and "from" fields of the e-mail.

FIRST COUNT
(Violation of OPRA)

22. Plaintiff repeats and incorporates by reference the allegations set forth in the preceding paragraphs as though fully set forth at length herein.

23. Pursuant to N.J.S.A. 47:1A-1, all government records must be "readily accessible" to the citizens of this State unless specifically exempted by law.

24. Plaintiff submitted a valid request for e-mails, which are government records and subject to access under OPRA, N.J.S.A. 47:1A-1 et seq.

25. Per OPRA, the e-mail correspondence should have been produced within seven business days of Plaintiff's request. N.J.S.A. 47:1A-59(i).

26. Accordingly, Accordingly, Defendants have violated OPRA by:

- a) Failing to make the records requested by Plaintiff "readily accessible for inspection, copying, or examination," in violation of N.J.S.A. 47:1A-1;
- b) Failing to search for records responsive to Plaintiff's request;
- c) Failing to disclose nonexempt government records or nonexempt portions of government records, in violation of N.J.S.A. 47:1A-5(g);
- d) Failing to provide a lawful basis for denying access to government records in violation of N.J.S.A. 47:1A-5(g);

- e) Failing to base a denial of access upon a basis “authorized by law” in violation of N.J.S.A. 47:1A-6; and
- f) Failing to identify the specific government records responsive to the requests and the specific basis for withholding each of those records, in violation of N.J.S.A. 47:1A-5(g).

WHEREFORE, Plaintiff demands judgment against Defendants:

(a) Declaring said actions of Defendants to be in violation of OPRA, N.J.S.A. 47:1A-1 et seq. by failing to provide access to the requested e-mail correspondence, as required by OPRA;

(b) Directing Defendants to search for e-mail correspondence responsive to Plaintiff’s OPRA request;

(c) Directing Defendants to release the requested e-mail correspondence to Plaintiff forthwith. Alternatively, if the Court believes that any information is exempt from public access, Plaintiff respectfully asks the Court to review the record *in camera* review and then require Defendants to delete or excise from the records the portion(s) which are exempt from public access and promptly permit access to the remainder of the records;

(d) Directing Defendants to identify each record withheld from access and the legal justification therefor through preparation of a Vaughn index or other means;

(e) Awarding counsel fees and costs pursuant to N.J.S.A. 47:1A-6; and

(f) For such other relief as the Court may deem just and equitable.

SECOND COUNT
(Common Law Right of Access)

27. Plaintiff repeats and incorporates by reference the allegations set forth in the preceding paragraphs as though fully set forth at length herein.

28. There is no privilege that protects the requested e-mail correspondence, and courts balance, in each case, the individual's right to the information against the public interest in the confidentiality of the file.

29. The public's need for access to these records outweighs Defendants' need for secrecy.

30. Defendants' failure to disclose the requested records violated Plaintiffs' right of access to public records under the common law.

WHEREFORE, Plaintiff demands judgment against Defendants:

- (a) Declaring said actions of Defendants to be unlawful and invalid;
- (b) Directing Defendants to release the requested records to Plaintiffs forthwith;
- (c) Awarding counsel fees and costs; and
- (d) Granting such other relief as the Court may deem just and equitable.

PASHMAN STEIN
A Professional Corporation,
Attorneys for Plaintiff,
Joy DeSanctis

Dated: March 9, 2016

By: _____


CJ GRIFFIN, ESQ.

CERTIFICATION PURSUANT TO R. 4:5-1

Plaintiff, by her attorney, hereby certifies that the matter in controversy is not the subject of any other action pending in any Court and is likewise not the subject of any pending arbitration proceeding. Plaintiff further certifies that he has no knowledge of any contemplated action or arbitration regarding the subject matter of this action and that Plaintiff is not aware of any other parties who should be joined in this action.

PASHMAN STEIN
A Professional Corporation,
Attorneys for Plaintiff,
Joy DeSanctis

Dated: March 9, 2016

By: 
CJ GRIFFIN, ESQ.

CERTIFICATION OF FAX/ELECTRONIC SIGNATURE

CJ Griffin, Esq., of full age, certifies and says as follows:

1. I am an attorney at law with the law firm of Pashman Stein, P.C. I make this certification of the genuineness of the electronic signature of Joy DeSanctis.

2. I hereby certify that Ms. DeSanctis acknowledged to me the genuineness of her signature on the foregoing Certification.

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.

PASHMAN STEIN
A Professional Corporation,
Attorneys for Plaintiff,
Joy DeSanctis

Dated: March 9, 2016

By: 
CJ GRIFFIN, ESQ.

VERIFICATION

I, Joy DeSanctis, of full age, deposes and say:

1. I am a citizen of the State of New Jersey, Plaintiff in the foregoing Verified Complaint.
2. The allegations of the Verified Complaint contained in Paragraphs 2-5 and 7-21 are true. The said Verified Complaint is made in truth and good faith and without collusion, for the causes set forth herein.
3. All documents attached to the Verified Complaint and Brief are true copies and have not been redacted, changed, modified, adjusted or otherwise altered in any manner by me or my agents unless so stated.

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.

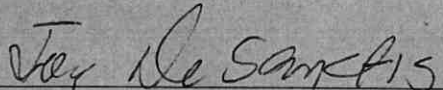

JOY DESANCTIS

EXHIBIT A

Belmar scales back controversial plans for boardwalk pavilions, many still unhappy



A group of Belmar residents want more of a say into how the borough's oceanfront pavilions, specifically what was Taylor Pavilion at 5th Avenue, are rebuilt after they were destroyed by Hurricane Sandy. (Rob Spahr / NJ.com)

By **Rob Spahr** | NJ Advance Media for NJ.com

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on August 08, 2013 at 12:29 PM, updated August 08, 2013 at 1:28 PM



BELMAR – Tempers flared during a marathon Borough Council meeting Wednesday night over plans to rebuild the boardwalk pavilions destroyed by Hurricane Sandy and information that was circulated by residents critical of those plans.

Borough officials recently announced plans to rebuild three of its four oceanfront pavilions – 8th Avenue, 10th Avenue and Taylor Pavilion – by Memorial Day 2014.

However, those plans were met by opposition from hundreds of borough residents – including a grassroots group called “Let the Citizens Decide” – who argued that new designs were everything from too big and too costly to worthy of a public vote.

As a result of those opinions, Mayor Matt Doherty announced Monday night that the borough has decided to scale back its plans by scrapping the 8th Avenue Pavilion, and the rooftop miniature golf course that came with it, for the time being.

"I can tell you without a doubt, we hear you. We hear where you want us to go and we hear where you don't want us to go," he said. "So we are going to significantly scale back what was originally proposed."

Doherty said that the 10th Avenue Pavilion will still move forward, because it is needed to house Public Safety operations, as will plans to replace the former one-story Taylor Pavilion with a two-story multi-use facility.

Department of Environmental Protection regulations prohibit the expansion of the new pavilion beyond its previous footprint, so Doherty said plans are calling for the addition of a second floor in order to accommodate the traditionally high demand for Taylor Pavilion use – more than 92 percent of which was from Belmar residents, he said.

While the borough introduced an ordinance to bond for more than \$7.1 million to help cover the \$7.5 million it is expected to take to rebuild the two pavilions, Doherty said that expense would be mostly covered by a proposed increase in beach tags fees – from \$7 to \$8 for daily passes and \$50 to \$60 for season badges – and vowed that "not a dime" of the cost to rebuild the pavilions would come from local taxpayers, even if FEMA does not reimburse Belmar for any of the rebuilding expenses.

But some argued that was still not enough.

Former Mayor Kenneth Pringle submitted a petition with more than 500 signatures of registered Belmar voters calling for the creation of an ordinance that would require any multi-story construction on public property east of Ocean Avenue – with the exception of those for public safety needs – to be approved by a majority of voters through separate referendums.

"I think what's reprehensible Mayor, is that for the first time in 23 years the citizens of Belmar have had to resort to initiate a petition to be heard on an issue as important as the one before you tonight," Pringle said.

Joy DeSanctis, the head of Let the Citizens Decide, said the petition represented hundreds of Belmar residents who love their town and suffered unbelievable loss during Hurricane Sandy.

"Along with the additional financial burden that some of us needed to take on to repair our homes, came a strong bonding and a firm determination to continue to live in our homes and remain in Belmar," she said. "That is why citizens will not allow decisions to be made in their town without their voice being heard."

Doherty said borough officials would verify the signatures on the petition and that the Borough Council would look at them. But he also questioned the information those voters were given before signing their names on the petition, saying that multiple people have told him they want their names taken off the petition after hearing the "facts."

Doherty said flyers that were passed out around town criticizing the pavilion plans contained gross exaggerations and "blatantly misinform people and blatantly lie."

"Since Sandy there has been an element in town that has opposed our recovery... they opposed the rebuilding of our boardwalk and now they're opposing the rebuilding of the pavilions," he said. "We talk about getting together as a community, getting behind each other and working together moving forward. To have people trying to divide a community is simply wrong."

While he said he that he understands that everyone is entitled to their opinion, Doherty said he thinks it's "reprehensible" what some people have been doing in town.

"We're a small town, we're a small community. I say let's work together, I say let's get behind each other, let's not do this," he said.

This did not sit well with the critics of the plan.

"You don't start a dialogue by going on a 45-minute rant against your critics. I'd like to hear who in this town you think is against recovery. Who? No one is against recovery. Maybe we're against no bid contracts, maybe we're for taking a more contemplative view before we dive into this headfirst. It doesn't mean we're against recovery," said C Street resident David Schneck, adding he

felt Doherty's comments were classless and "offensive."

"We're not fighting building the pavilions, we're not fighting at all. We're just trying to say that we want to be heard," DeSanctis said. "My problem with this whole process is, I don't really think you have a handle on it. ... The construction doesn't make any sense to me at all, the design doesn't make any sense to me at all and the amount of money you spent on it doesn't make any sense to me at all."

But toward the end of the more than 5-hour-long meeting, the Borough Council approved a resolution, by a 4-1 vote, to receive bids for the construction of the pavilions and introduced the ordinance, also by a 4-1 vote, to bond for the \$7.1 million to pay for it.

Councilman James Bean was the lone opposing vote in both cases, citing that he felt other projects in town should to be completed first.

The public hearing and final adoption of the ordinance is scheduled to take place at an upcoming meeting, which Borough Attorney Michael DuPont said would likely be before action can be taken the petition.

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Belmar's controversial boardwalk pavilion narrowly approved by voters



By **MaryAnn Spoto** | NJ Advance Media for NJ.com

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on November 04, 2015 at 11:31 AM, updated November 05, 2015 at 7:17 AM

BELMAR — Belmar residents should be getting a new pavilion on the boardwalk after voters Tuesday night narrowly approved a bond ordinance to borrow \$4.1 million to rebuild what Hurricane Sandy destroyed three years ago.

The approval wasn't without confusion, though. Shortly after borough officials declared victory with a plan they had pushed and modified for more than two years, the Monmouth County Clerk's results indicated the effort had failed.

But by Wednesday morning when the dust had settled, the clerk's office revised its figures to show the referendum was approved.

"We are very happy to move forward on building this pavilion finally," Mayor Matthew Doherty said after the vote. "It is an important part of our recovery."

MORE: Election Day 2015: Monmouth County election results

Belmar residents last year shot down a referendum that called for borrowing \$7 million to rebuild the Taylor Pavilion on Fifth Avenue and a public safety pavilion on Tenth Avenue. Backed by former Belmar Mayor Kenneth Pringle, the opposition group insisted the expense was too high and the buildings too elaborate for a community still recovering from the storm. They said the construction cost should be more in line with the \$2 million neighboring Avon-by-the-Sea spent to replace its pavilion destroyed by Sandy.

Doherty said the vote should convince the opposition to end the legal battle.

"Now that the voters have spoken, we call on Ken Pringle to drop his lawsuits -- dating back to 2013 -- against the town rebuilding the Taylor Pavilion," Doherty said. "He should respect the democratic process and stop slowing down our recovery."

The opposition group says it still plans on moving forward with the lawsuits, however.

"The Court's decisions address important legal issues involving the rights of our residents and beachgoers under the New Jersey Civil Rights Act and the Public Trust Doctrine," Pringle said via email. "We have no intention of withdrawing our lawsuits."

He added that the opposition group worked hard to make voters aware of the recent court ruling and that Belmar could only lawfully use about \$1.9 million of the FEMA funding it receives toward the \$4.1 million cost of building the Taylor Pavilion.

"I can only assume that those who voted for the question do not mind that Belmar's taxpayers will be responsible for the \$2.6 million balance of the construction costs," Pringle said.

Earlier this year, the borough council came to a compromise that trimmed the cost of the Taylor Pavilion to \$4.1 million, a cost that Doherty has said can be covered by reimbursement from the Federal Emergency Management Administration and donations.

With the approval, a committee of borough officials, voters and professionals would still try to reduce the cost of the pavilion and the project would not go out for bid without the committee first giving recommendations to the borough council.

The Taylor Pavilion originally was part of an \$11.66 million bond ordinance that would also have replaced an outfall pipe at Lake Como to prevent flooding.

However, after a group of **residents opposed to the project** took the matter to court, a Superior Court judge forced the borough to separate the projects and put the pavilion construction question on the November ballot.

County Clerk Christine Hanlon said the error came from the county's election software vendor, Dominion Voting Systems. She said the company deleted the vote-by-mail results from the tally "for some unknown reason."

"We have spent several hours investigating the problem and have determined that the Dominion representative made an error in deleting the Vote-by-Mail numbers," Hanlon said in a statement issued Wednesday morning. "We have corrected the problem and have posted the updated unofficial results to the **MonmouthCountyVotes.com** website."

*MaryAnn Spoto may be reached at mspoto@njadvancemedia.com. Follow her on Twitter [@MaryAnnSpoto](https://twitter.com/MaryAnnSpoto). Find NJ.com on **Facebook**.*

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Fight over post-Sandy beachfront redevelopment rages on in Belmar



Belmar's Borough Council approved two measures Tuesday night to move forward with the reconstruction of two oceanfront pavilions that were destroyed by Hurricane Sandy. (Rob Spahr/NJ.com)

By **Rob Spahr** | NJ Advance Media for NJ.com

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on May 07, 2014 at 4:00 PM, updated May 07, 2014 at 4:51 PM



BELMAR – With lawsuits still pending against the borough over its funding plans for the rebuilding of two of its popular boardwalk pavilions destroyed by Hurricane Sandy, the Borough Council has approved two measures to move those projects forward.

At its regular meeting Tuesday night, the Borough Council approved a **\$7 million bond ordinance**, by a 4-1 vote, to help fund the reconstruction of the 10th Avenue pavilion, which will house public safety operations, and the former multi-use Taylor Pavilion at 5th Avenue.

Later in the meeting, the council also voted – this time unanimously – to approve a resolution awarding the contract for the construction of the pavilions to Piscataway-based Epic Construction for nearly \$4.9 million. The balance of the \$7 million would go toward utility, bathroom, engineering, furniture and equipment costs. Epic Construction, which Mayor Matt Doherty said was the lowest bidder, was also the company that rebuilt the borough's boardwalk after Hurricane Sandy.

These approvals mark the latest chapter in the controversy surrounding the pavilions post-Sandy.

Last year, borough officials announced plans to rebuild three of the borough's four oceanfront pavilions damaged in the hurricane – 8th Avenue, 10th Avenue and Taylor Pavilion – by Memorial Day 2014.

Due to opposition from a group of Belmar residents, however, Doherty announced in August that those plans would be scaled back by indefinitely scrapping the 8th Avenue Pavilion and the rooftop miniature golf course that came with it.

Plans for the 10th Avenue Pavilion still called for it to house public safety operations, while plans called for the former one-story Taylor Pavilion to be replaced with a two-story multi-use facility.

However, after the borough announced that it planned to use revenue from the borough's beach utility – which gets funding through the sale of beach tags – a group of residents calling themselves “Let The Citizens Decide,” represented by former Mayor Kenneth Pringle, sued to block the project, questioning the appropriateness of the project's planned funding source and arguing that the plans for the new pavilions were too elaborate and expensive, and should be decided by a referendum.

In October, Doherty **publicly declared**: “The wheels of government should not be brought to a grinding halt for a such frivolous lawsuit.”

But then in November, Doherty announced that Belmar would again be scaling its plans back – this time for Taylor Pavilion, which would now be one floor instead of the two called for by the committee of Belmar residents, officials and professionals who designed the plans.

“The lawsuits did not influence this decision in the least bit. It had zero impact,” Doherty **told NJ.com in November**, citing opinions gathered from residents during the general election campaigning as the real motivator for the change.

And with the lawsuits still lingering, the Borough Council introduced the \$7 million bond ordinance last month to fund the construction of the latest pavilion designs, **which Doherty said was structured** “in a way that it didn't violate the judge's stay.”

While some residents publicly praised the borough at Tuesday night's meeting for moving forward on the rebuilding of the pavilions, others were still not happy.

Some residents and Councilman James Bean, who was the lone vote against the bond ordinance, said the borough should split up the construction of the two pavilions so construction on public safety pavilion at 10th Avenue could begin while also allowing for the money that would be spent on the 5th Avenue pavilion to go to projects they felt were more urgent, specifically fixing flooding issues around Lake Como.

Doherty said it would be more expensive for taxpayers to fund the construction of the pavilions separately than to do it under the same contract. He also assured residents who live near Lake Como that the flooding issues there are also a priority that borough officials are working on with officials from Spring Lake and Lake Como.

Another resident questioned the logic of spending money to rebuild any of the four pavilions that stood prior to Hurricane Sandy because the pavilions – and their predecessors – all have something in common: “They're all gone.”

And Joy DeSanctis, who heads “Let The Citizens Decide,” demanded accurate answers from the Borough Council – which she claimed the borough refuses to provide through Open Public Records Act requests – on exactly how much of the funding for the project would be coming from FEMA, how the balance would be funded and what exactly the plans call for.

Doherty said FEMA is expected to reimburse Belmar nearly \$3.7 million – or a little more than 50 percent of the total project's cost – and that an insurance reimbursement of \$484,000, which was blocked from being used for a down payment due to the lawsuit, would eventually also help offset the cost.

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The balance of the funding would be determined after the lawsuit is ruled on, but Doherty said it is still the borough's desire to pay for it through the beach utility and not through local taxpayer dollars. If the group of residents wins their lawsuit, the funding would likely come from tax dollars.

"You are awful for taxpayers," Doherty told DeSanctis during the meeting, adding she represented a fraction of Belmar residents who have been "opposed" to the borough's efforts to recover from Hurricane Sandy since almost the beginning.

"You are not going to stand in the way of us fully recovering from the storm," he said. "We may have to go around you or we have to go through you ... but you are not going to stop us."

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Pavilion Reconstruction

On October 28, 2012, Hurricane Sandy made landfall on Belmar bringing the Atlantic Ocean into the Borough, completely decimating the boardwalk, pushing decking as deep as 5 blocks into town; all oceanfront pavilions were destroyed and over half the Borough was left flooded.

The Belmar Oceanfront Pavilions have always been part of the fabric of beachfront. Click here to check out these beauties from Belmar's past! Concessions, restaurants, bathrooms and event space that are used all year round. In the year before the storm, Taylor Pavilion was used for over 280 events; Weddings, Birthday Parties, Meetings, Concerts, Dances & other beachfront events.

For a breakdown of the reconstruction project costs, click here.

The John Taylor Pavilion

5th & Boardwalk



The John Taylor Pavilion is a one-story, 6,822 square feet facility that serves as home to Belmar Beachfront Operations, Concession Space and Event Space.

The Taylor Pavilion is compliant with all aspects of V-Zone Construction and ADA Guidelines.

In the year before the storm, Taylor Pavilion was used for over 280 events; Meetings, Concerts & other beachfront events.

Groups using the Taylor Pavilion in the past include:

Belmar Elementary School, Belmar Youth Club, St. Rose High School, Belmar Women's Club, Circle of Friends HYDAS, Belmar ADA Committee, Belmar Cares, Belmar Mayors Wellness Campaign, Belmar

Summer Arts & Crafts Program, Belmar Historical Society, Belmar Autism Beach Bash, Belmar Senior Parties & Luncheons, Manasquan Lacrosse, Manasquan High School Jazz Band, Elks Polar Bear Plunge, Shark River Anglers, 4-H Club, Belmar Seafood Festival, Belmar Military Appreciation Day, Jersey Shore Running Club, Belmar 5 Mile Run, Belmar 5 K, Belmar Triathlon, Celtic Chase

Click here for information on:

[Bid Documents for the Pavilions: Drawings](#)

[Bid Documents for the Pavilions: Specifications](#)

[Bid Results for the Pavilions](#)

[Project Estimates](#)

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The Howard Rowland Pavilion

10th & Boardwalk



The Howard Rowland Pavilion is a 2,658 square foot state-of-the art Public Safety building that will serve as Headquarters for our Lifeguards and a substation for Police, First Aid & Water Rescue; and will also include a Concession Space.

The Howard Rowland Pavilion is compliant with all aspects of V-Zone Construction and ADA Guidelines. The Howard Rowland Pavilion will also feature a lifeguard tower that will allow visual access of the entire beachfront for first responders.

Click here for information on:

[Bid Documents for the Pavilions: Drawings](#)

[Bid Documents for the Pavilions: Specifications](#)

[Bid Results for the Pavilions](#)

[Project Estimates](#)

[Project Cost Breakdown](#)

[FEMA Approvals](#)

[FEMA Project Worksheets](#)

FEMA INFORMATION

FEMA has obligated 5 Project Worksheets (PWs) for the 5 Oceanfront Pavilions that Belmar lost during Hurricane Sandy. These PW's total \$6,086,408.

Belmar anticipates that FEMA will deduct \$500,000 from each PW to account for flood insurance (even if flood insurance was not in place), after this and the 10% local match is taken into consideration \$3,677,767 is anticipated in Federal Funding for the rebuild projects.

As Belmar only intends to rebuild 5th & 10th Pavilions, the funds for the remaining 3 pavilions not

being built will be directed to the 5th and 10th Pavilions as Improved Projects. An Improved Project is a FEMA mechanism by which a municipality may direct funding from projects not being rebuilt to those that are.

Both buildings are within the previously existing footprints and include improvements required by Codes and Standards.

The building designs comply with all aspects of construction with a V-Zone.

8th and 13th Avenue Pavilions will not be rebuilt and funding is directed to 5th Avenue Pavilion as an Improved Project.

10th North Pavilion will not be rebuilt and funding is directed to 10th South Pavilion as an Improved Project.

Federal Funds Available for 5th Avenue Pavilion: \$2,419,074

Federal Funds Available for 10th Avenue Pavilion: \$1,258,693

Total Federal Funds Available: \$3,677,767

Total Cost of Reconstruction:	\$7,000,000
Less Federal Funds Available:	(\$3,677,767)
Less Insurance Proceeds:	(\$ 484,000)
Balance Remaining:	\$2,838,233

FEMA Documents

FEMA Approval to Consolidate the Projects

Belmar will then calculate the apportionment of the remaining balance to be attributed to the Beach Utility and the Current Fund.

BELMAR MUNICIPAL BUILDING | 601 MAIN STREET | BELMAR, NJ 07719 | PHONE: 732-681-3700 | FAX: 732-681-3434

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EXHIBIT B

LETTER: \$2.9 million is enough to rebuild Belmar pavilion

1:13 p.m. EDT August 6, 2015



(Photo: file photo)

The pavilion at 5th and Ocean Avenue in Belmar should be rebuilt to FEMA and new municipal code standards, and it will be when the mayor decides to scale it back to pre-Sandy size and function.

The building is in the V-1 zone (highest hazard) and FEMA is obligated, although I feel foolishly, to the \$2.9 million to rebuild it. That is the amount. Spend that amount and start rebuilding tomorrow. Scale it back to a functional building that services beachgoers with a small meeting area for events.

Give residents the costs of operation during and after the season. Let us know all overheads, insurance, maintenance, staff salaries, all potential expenses before it is sent out to bid. Make sure there are no shenanigans selling alcohol, and guarantee the food trucks will be gone and we are set to go. It will take an honest man like candidate Dave Schneck to start the ball rolling. Otherwise, we will wait forever so the mayor can hire special contractors at overpriced fees.

The \$2.9 million cost is enough to rebuild at FEMA hurricane standards. We just need to tell our engineers to make it smaller like it was before. If we cannot rebuild with \$2.9 million it should not be rebuilt, as residents will bear the tax burden. If it cannot be rebuilt with \$2.9 million, it will be the fault of the mayor and council. Spending \$4.1 million to build one pavilion is not acceptable, and borrowing to overbuild is irresponsible.

Joy DeSanctis

Belmar

Read or Share this story: <http://on.app.com/1Ncyruu>



EXHIBIT C

From: **Claudio, April** <aclaudio@boro.belmar.nj.us>
Date: Fri, Feb 5, 2016 at 12:03 PM
Subject: Re: Second OPRA 2/5/15
To: Joy DeSanctis <profileconsultantsllc@gmail.com>
Cc: Colleen Connolly <cconnolly@boro.belmar.nj.us>, "George D. McGill"
<gdm@mcgillhall.com>

Joy

If you wish to request emails you must provide the following in your request: **To** (specific name or email address), **From** (specific name or email address), **Subject**, **Date(s)**.

Thank you.

April

On Fri, Feb 5, 2016 at 11:58 AM, Joy DeSanctis <profileconsultantsllc@gmail.com> wrote:

Attn: April Claudio

Pursuant to OPRA and the common law, I seek the following government records to be e-mailed to me in electronic format:

1. Copies all correspondence (letters, e-mails, faxes, and memorandums) between Belmar and FEMA regarding Super Storm Sandy Funds from October 29, 2012 to present date. Please include attachments.
2. Copies all correspondence (letters, e-mails, faxes, and memorandums) between Belmar and FEMA regarding construction of the all the pavilion from October 29, 2012 to present date. Please include attachments.

Please send in electronic form.

Thank you.

Joy DeSanctis
101 6th Avenue, Belmar, NJ 07719
732 681-2424 - home
908 907-2808 - cell
profileconsultantsllc@gmail.com

EXHIBIT D

From: Joy DeSanctis <profileconsultantsllc@gmail.com>
Date: Fri, Feb 5, 2016 at 12:16 PM
Subject: Re: Second OPRA 2/5/15
To: "Claudio, April" <aclaudio@boro.belmar.nj.us>, Colleen Connolly
<cconnolly@boro.belmar.nj.us>, "George D. McGill" <gdm@mcgillhall.com>

April,

I do not NEED to tell you the "to" and the "from" (I can tell you either/or), but I actually did: correspondence sent between FEMA and the Boro. I also told you the subject, "superstorm sandy funds" and "construction of the pavilion." And I provided a date range. Please produce the records.

Thank you.

Joy DeSanctis
732 681-2424 - home
908 907-2808 - cell
profileconsultantsllc@gmail.com

EXHIBIT E

From: **April Claudio** <aclaudio@boro.belmar.nj.us>
Date: Fri, Feb 5, 2016 at 12:22 PM
Subject: Re: Second OPRA 2/5/15
To: Joy DeSanctis <profileconsultantsllc@gmail.com>
Cc: Colleen Connolly <cconnolly@boro.belmar.nj.us>, "George D. McGill" <gdm@mcgillhall.com>

As per the GRC when requesting emails you have to provide to and from we cannot speculate whose emails you want. Saying boro and FEMA is too broad.

April Claudio
Belmar Municipal Clerk
Planning, Zoning & Construction

On Feb 5, 2016, at 12:16 PM, Joy DeSanctis <profileconsultantsllc@gmail.com> wrote:

April,

I do not NEED to tell you the "to" and the "from" (I can tell you either/or), but I actually did: correspondence sent between FEMA and the Boro. I also told you the subject, "superstorm sandy funds" and "construction of the pavilion." And I provided a date range. Please produce the records.

Thank you.

Joy DeSanctis
732 681-2424 - home
908 907-2808 - cell
profileconsultantsllc@gmail.com

On Fri, Feb 5, 2016 at 12:03 PM, Claudio, April <aclaudio@boro.belmar.nj.us> wrote:
Joy

If you wish to request emails you must provide the following in your request: **To** (specific name or email address), **From** (specific name or email address), **Subject**, **Date(s)**.

Thank you.

April

On Fri, Feb 5, 2016 at 11:58 AM, Joy DeSanctis <profileconsultantsllc@gmail.com> wrote:

Attn: April Claudio

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2. Copies all correspondence (letters, e-mails, faxes, and memorandums) between Belmar and FEMA regarding construction of the all the pavilion from October 29, 2012 to present date. Please include attachments.

Please send in electronic form.

Thank you.

*Joy DeSanctis
101 6th Avenue, Belmar, NJ 07719
732 681-2424 - home
908 907-2808 - cell
profileconsultantsllc@gmail.com*

--

April Claudio

Borough of Belmar - Municipal Clerk
Planning & Zoning Bd. Secretary
Technical Assistant-Construction Dept.
Deputy Registrar of Vital Statistics
Phone: 732-681-3700 ext 225 (dial 9 first)
Fax: 732-681-3434

EXHIBIT F

CJ Griffin

Subject: FW: Second OPRA 2/5/15

FilingDate: 3/9/2016 2:57:20 PM

From: Joy DeSanctis [<mailto:profileconsultantsllc@gmail.com>]

Sent: Wednesday, March 09, 2016 9:54 AM

To: CJ Griffin

Subject: Fwd: Second OPRA 2/5/15

Joy DeSanctis

732 681-2424 - home

908 907-2808 - cell

profileconsultantsllc@gmail.com

----- Forwarded message -----

From: Joy DeSanctis <profileconsultantsllc@gmail.com>

Date: Fri, Feb 5, 2016 at 12:35 PM

Subject: Re: Second OPRA 2/5/15

To: April Claudio <aclaudio@boro.belmar.nj.us>, Colleen Connolly <cconnolly@boro.belmar.nj.us>, "George D. McGill" <gdm@mcgillhall.com>

April,

I cannot possibly know the identity of who is working on the Boro's FEMA matters, nor the names of the FEMA persons working on the Boro's matters on their end. I am asking for all the correspondence between the Boro and FEMA regarding a specific subject matter. Please provide it to me or I will file with the GRC.

Thank you.

Joy DeSanctis

732 681-2424 - home

908 907-2808 - cell

profileconsultantsllc@gmail.com

On Fri, Feb 5, 2016 at 12:22 PM, April Claudio <aclaudio@boro.belmar.nj.us> wrote:

As per the GRC when requesting emails you have to provide to and from we cannot speculate whose emails you want. Saying boro and FEMA is too broad.

April Claudio
Belmar Municipal Clerk
Planning, Zoning & Construction

On Feb 5, 2016, at 12:16 PM, Joy DeSanctis <profileconsultantsllc@gmail.com> wrote:

April,

I do not NEED to tell you the "to" and the "from" (I can tell you either/or), but I actually did: correspondence sent between FEMA and the Boro. I also told you the subject, "superstorm sandy funds" and "construction of the pavillion." And I provided a date range. Please produce the records.

Thank you.

Joy DeSanctis
732 681-2424 - home
908 907-2808 - cell
profileconsultantsllc@gmail.com

On Fri, Feb 5, 2016 at 12:03 PM, Claudio, April <acaudio@boro.belmar.nj.us> wrote:
Joy

If you wish to request emails you must provide the following in your request: **To** (specific name or email address), **From** (specific name or email address), **Subject**, **Date(s)**.

Thank you.

April

On Fri, Feb 5, 2016 at 11:58 AM, Joy DeSanctis <profileconsultantsllc@gmail.com> wrote:

Attn: April Claudio

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Please send in electronic form.

Thank you.

Joy DeSanctis
101 6th Avenue, Belmar, NJ 07719
732 681-2424 - home
908 907-2808 - cell
profileconsultantsllc@gmail.com

April Claudio
Borough of Belmar - Municipal Clerk
Planning & Zoning Bd. Secretary
Technical Assistant-Construction Dept.
Deputy Registrar of Vital Statistics
Phone: 732-681-3700 ext 225 (dial 9 first)
Fax: 732-681-3434

EXHIBIT G

CJ Griffin

Subject:

FW: Second OPRA 2/5/15

On Tue, Feb 16, 2016 at 4:42 PM, Claudio, April <aclaudio@boro.belmar.nj.us> wrote:
Joy

In response to your request we have found two letters:

1. Dated May 8, 2014 from Lt. Patrick Gorman
2. Dated April 24, 2014 from John Covell

As previously stated to you, we are unable to search for emails since you did not clearly specify To and From. Simply stating emails between the Borough and FEMA does not tell me whose emails you wish to obtain. If you'd like you may submit more details or submit another request.

Thank you.

April

On Fri, Feb 5, 2016 at 11:58 AM, Joy DeSanctis <profileconsultantsllc@gmail.com> wrote:

Attn: April Claudio

Pursuant to OPRA and the common law, I seek the following government records to be e-mailed to me in electronic format:

1. Copies all correspondence (letters, e-mails, faxes, and memorandums) between Belmar and FEMA regarding Super Storm Sandy Funds from October 29, 2012 to present date. Please include attachments.
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Please send in electronic form.

Thank you.

Joy DeSanctis
101 6th Avenue, Belmar, NJ 07719
732 681-2424 - home

908 907-2808 - cell
profileconsultantsllc@gmail.com

--

April Claudio

Borough of Belmar - Municipal Clerk

Planning & Zoning Bd. Secretary

Technical Assistant-Construction Dept.

Deputy Registrar of Vital Statistics

Phone: 732-681-3700 ext 225 (dial 9 first)

Fax: 732-681-3434



State of New Jersey

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF STATE POLICE
POST OFFICE BOX 7068
WEST TRENTON, NJ 08628-0068
(609) 882-2000

JOHN J. HOFFMAN
Acting Attorney General

COLONEL JOSEPH R. FUENTES
Superintendent

May 8, 2014

Belmar
Colleen Connolly
601 Main Street
Belmar, New Jersey 07719-0000

Re: Belmar
FIPS #025-04930-00
FEMA-4086-DR-NJ

Dear Applicant:

Enclosed, please find a response from the Director of the NJ Sandy Recovery Field Office, FEMA-4086-DR-NJ dated April 24, 2014. This response is in regard to a request for an "Improved Project" for PW #4533;5054;5055;5056;5057. After careful consideration and review of all provided documentation, FEMA has determined your request is approved.

Should you have any questions or concerns, please contact me at (732) 345-2862 or ipp5595@gw.njsp.org.

Sincerely,

Lt. Patrick Gorman, Badge No. 5595
Public Assistance Unit Head DR-4086-NJ

Attachments



"An Internationally Accredited Agency"
New Jersey Is An Equal Opportunity Employer
Printed on Recycled Paper and Recyclable



U. S. DEPARTMENT OF HOMELAND SECURITY
Federal Emergency Management Agency
New Jersey Sandy Recovery Field Office
307 Middletown Lincroft Rd
Lincroft, NJ 07738



FEMA

April 24, 2014

Captain Joseph Geleta
State Coordinating Officer
State of New Jersey
Post Office Box 7068
West Trenton, New Jersey 08628

Reference: Request for Improved Project – Category E
Belmar; P.A. ID: 025-04930-00
FEMA-4086-DR-NJ; Project Worksheets 04533(0); 05054(0); 05055(0);
05056(0); and 05057(0)
FEMA Tracking: #CORR-99

Dear Captain Geleta:

This is to acknowledge receipt of your request on behalf of Belmar (Applicant) for an Improved Project for Project Worksheets (PW) 04533(0); 05054(0); 05055(0); 05056(0); and 05057(0) prepared to address Hurricane Sandy damages to five beach pavilions. Applicant has elected to replace the five pre-disaster pavilions with two new pavilions, using the funds from all five to contribute to the new construction.

Applicant will build two new pavilions: One on the pre-existing Taylor 5th Avenue site and will retain the site's pre-disaster function of food concession and public meeting space. The new facility will integrate current codes and standards and meet floodplain requirements. The second new pavilion will be built on the pre-existing 10th Avenue North site and will retain the pre-disaster function of that site as well as the function of the pre-existing 10th Avenue South pavilion of food concessions, lifeguard headquarters, emergency services and restrooms. Applicant's request for an improved project is approved.

FEMA staff will review the documentation provided and work with the Applicant to update the PW with the Improved Project funding option if necessary and in accordance with 44 CFR §206.203 (d) (2) *Improved projects*. If Applicant desires to make improvements, but still restore the pre-disaster function of a damaged facility, the Grantee's approval must be obtained. Federal funding for such improved projects shall be limited to the federal share of the approved estimate of eligible costs.

Captain Joseph Geleta

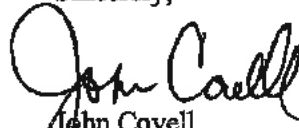
Belmar - PWs 04533(0); 05054(0); 05055(0); 5056(0); and 05057(0)

April 24, 2014

Page 2

Should you have any questions or need further assistance, please feel free to contact me or
Doug Westermann of my staff at (732) 345-3127.

Sincerely,



John Covell

Director, NJ Sandy Recovery Field Office

cc: Doug Westermann, Public Assistance Branch Chief