

WALTER M. LUERS, ESQ. - 034041999
LAW OFFICES OF WALTER M. LUERS, LLC
Suite 2
122 West Main Street
Clinton, New Jersey 08809
Telephone: 908.894.5656
Attorneys for Plaintiff

<p>FRAN BROOKS,</p> <p>Plaintiff,</p> <p>v.</p> <p>TOWNSHIP OF TABERNACLE and LaSHAWN R. BARBER in her official capacity as Municipal Clerk and Records Custodian of the Township of Tabernacle,</p> <p>Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: BURLINGTON COUNTY</p> <p>DOCKET NO. _____</p> <p>CIVIL ACTION</p> <p>CERTIFICATION OF FRAN BROOKS</p>
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I, FRAN BROOKS, of full age hereby certify and say:

1. I am the plaintiff in the above-captioned matter. I am submitting this certification in support of my application for a copy of the rosters of the Tabernacle Rescue Squad (“TRS”) Roster (“TRS Roster”); the Tabernacle Fire Company #1 (hereinafter “TFC#1”) Roster, the Community Emergency Response Team (hereinafter “CERT”) and the Local Emergency Planning Committee (hereinafter “LEPC”), as contained within the Tabernacle Township Emergency Operations Plan (“EOP”).

2. On March 29, 2017, I sent an OPRA request (hereinafter “Request”) for twelve records to LaShawn Barber, Tabernacle Township Custodian of Records. Upon closer review for the preparation of this certification, I see that I mistakenly signed the request as “2/29/17” instead of 3/29/17. Also, I see that the Request mistakenly numbered Item 12 as item 11. Thus, there are two items that are numbered eleven. For ease of understanding, hereinafter I will refer to the first item 11 as “11” and the second item 11 as “12.”

3. The Request recited that “This document is a request for government records under the Open Public Records Act and under the common law right of access.” A true and accurate copy of that Request and Defendants’ response is attached as Exhibit A.

4. Included among the request for twelve aforementioned records are the rosters of the TRS, the TFC-1, CERT and LEPC as contained in the EOP and those same rosters as they may be contained elsewhere in Tabernacle’s files. In particular, this Request asked for the following specific records. Please note that I have included in my list below only those specific requests that are at issue in this case.

1. Record showing the roster of the Tabernacle Fire Company #1 as currently contained within the Tabernacle Township, Office of Emergency Management, NJOEM approved Emergency Operations Plan.

3. Record showing the roster of the Tabernacle Rescue Squad as currently contained within the Tabernacle Township, Office of Emergency Management, NJOEM approved Emergency Operations Plan.

4. Record showing the roster of the Tabernacle Rescue Squad as currently contained within any other Tabernacle Township file other than the Office of Emergency Management, NJOEM approved Emergency Operations Plan (aka Emergency Plan).

8. Record showing the roster of the Community Emergency Response Team (CERT) as currently contained within the Tabernacle Township, Office of Emergency Management, NJOEM approved Emergency Operations Plan.

10. Record showing roster of the Township of Tabernacle Local Emergency Planning Committee (LEPC) as currently contained within the Tabernacle Township, Office of Emergency Management, NJOEM approved Emergency Operations Plan.

5. By letter of April 10, 2017, Custodian Barber responded (hereinafter “Response”) to my Request by email. (Exhibit A). The Response satisfied items 2, 5, 6, 7, 9 and

11, but denied items 1, 3, 4, 8, 10 and 12. The following explanations of denial are quotations from the Custodian's letter of April 10, 2017. (Exhibit A).

Item 1. The Tabernacle Emergency Operations Plan (EOP), exempt from disclosure, E.O. 21, Section 1A-N.J.S.A. 47:1A-9. (Upholds exemptions contained in other State or federal statutes and regulations, Executive Orders of the Governor, Rules of Court, and Constitution of this State or judicial case law).

Item 3. The Tabernacle Emergency Operations Plan (EOP), exempt from disclosure, E.O. 21, Section 1A-N.J.S.A. 47:1A-9. (Upholds exemptions contained in other State or federal statutes and regulations, Executive Orders of the Governor, Rules of Court, and Constitution of this State or judicial case law).

Item 4. The roaster [sic] of the Tabernacle Rescue Squad, no records responsive to your request exist. Tabernacle OEM retains no files with regard to the membership of the Tabernacle Rescue Squad nor Tabernacle Fire Company outside of the EOP.

Item 8. The Tabernacle Emergency Operations Plan (EOP), exempt from disclosure, E.O. 21, Section 1A-N.J.S.A. 47:1A-9. (Upholds exemptions contained in other State or federal statutes and regulations, Executive Orders of the Governor, Rules of Court, and Constitution of this State or judicial case law).

Item 10. The Tabernacle Emergency Operations Plan (EOP), exempt from disclosure, E.O. 21, Section 1A-N.J.S.A. 47:1A-9. (Upholds exemptions contained in other State or federal statutes and regulations, Executive Orders of the Governor, Rules of Court, and Constitution of this State or judicial case law).

In sum, the custodian gave me three rosters (TFC#1, CERT, LEPC) that were outside of the EOP, but denied me rosters from the same organizations that were in the EOP. In addition, the custodian denied me the TRS Roster, which it had in the EOP.

6. Unlike Tabernacle Township, Medford Township, readily provided its complete EMS roster to me in response to a similar OPRA/common law right of access request.

7. By email of April 10, 2017, I sent a request to the Custodian of Records of Medford Township, Burlington County, for the rosters of its volunteer and emergency EMS

personnel. The request recited that “This document is a request for government records under the Open Public Records Act and under the common law right to public records.” A true and accurate copy of this request is attached as Exhibit B.

8. The request to Medford Township defined the term “roster” and excluded personal information in a manner similar, though not identical, to the Request to Tabernacle Township. The request to Medford states, “In this request “roster” refers to a list of all members/list of all personnel. I’m not requesting the addresses or telephone numbers of the individuals named in the rosters.”

9. In particular, the Medford Township request sought the following records. I have enumerated them below as items 1 through 3 to correspond with their enumeration in the request:

1. Records showing roster of all volunteer members of the Medford Township EMS.
2. Record showing roster of all employee members (part-time and/or full time) of the Medford Township EMS.
3. If records for both #1 and #2 are not available, I am requesting record showing entire roster of all members of the Medford Township EMS.

11. By email, Medford Township sent me a response letter dated April 17, 2017. The response letter enclosed the complete roster of Medford Township’s EMS personnel. The roster provides the last name, first name, ID number, station, status (career or volunteer) and rank of each member. A true and accurate copy of Medford Township’s letter of April 17, 2017 and Medford Township’s EMS roster is attached as Exhibit C.

12. Also unlike Tabernacle Township, Evesham Township readily provided its complete EMS roster to me in response to an OPRA/common law right of access request. However, my transaction with Evesham Township required two requests.

13. By email of April 11, 2017, I sent a request to the Custodian of Records of Evesham Township, Burlington County for the rosters of its volunteer and emergency EMS personnel. This request was submitted on the Evesham Township Open Public Records Request Form. A true and accurate copy of this request is attached as Exhibit D.

14. By email dated April 12, 2017, I received a response to my OPRA request from Mr. Paul Thomas of the Evesham Township Fire District. The response recited that it was a “roster of the current active members of the Evesham Township Fire District No. 1.” Exhibit E is a true and accurate copy of Evesham Township Fire District’s response dated Wednesday April 12, 2017. (Exhibit E at 6 to 21).

15. Because the April 12, 2017 response from the Evesham Township Fire District did not differentiate volunteer EMS personnel from paid EMS personnel, I sent a second request to Mr. Paul Thomas for records showing the Fire District’s paid EMS personnel separately from the rosters of its volunteer and emergency EMS personnel. This request also recited that it was “a request for government records under the Open Public Records Act and under the common law right of access.” (Exhibit E at 3-4).

16. In particular, the second request to Evesham asked for the following: “Records showing all paid Evesham Township Emergency Medical Technicians. This request is for the names of these paid employees. I am not asking for social security numbers, addresses or telephone numbers. If you have to redact information, please explain the redactions as required by OPRA.” (Exhibit E at 3-4).

17. On April 20, 2017, Mr. Paul Thomas sent me an email “in response to your Open Public Records Act Request (OPRA), that was received in this office on April 18, 2017.” The

response included “a listing of all ‘career’ members of the Evesham Township Fire District No. 1 who are certified emergency medical technicians (EMY’s)” [sic]. (Exhibit E at 2-3).

18. Based on the list of all Evesham Fire District emergency medical technician and career emergency medical technicians, I can distinguish paid and volunteer emergency medical technicians.

19. Pursuant to Ordinance 2011-3, Tabernacle Township has designated TRS “as the official emergency medical and rescue service for the Township of Tabernacle.” Exhibit F is a true and accurate copy of Ordinance 2011-3.

20. Notwithstanding the Tabernacle Township Custodian’s reliance on Executive Order 21, as the basis to deny my request for the TRS roster, the identity of a substantial majority of the TRS’s members, including its executive and line officers, is already publicly known through the TRS’s own website, the postings of TRS’s own members on Facebook and through general community knowledge.

21. The TRS itself identifies 15 people as officers, volunteers or cadets on its own website (<http://www.tabernaclerescue.com>) and on its own Facebook page (<https://www.facebook.com/search/top/?q=tabernacle%20rescue%20squad>). In addition, the TRS regularly publishes photographs of its members and personnel on its Facebook page. These people are listed in subparagraphs A, B and C below. In paragraphs A and B, the relationship of these people with the TRS is described in the same manner as it appears on the TRS’s website and on the TRS’s Facebook page, except for the notation on Treasurer Borowsky, now deceased, which I added. In subparagraph C, I have included three photographs. Many more are published on the TRS website.

Exhibit G contains true and accurate screenshots from the TRS's website and Facebook pages, which I took on April 25, 27-30, 2017. I have redacted my personal information from all of these screenshots.

21.A. Eleven Officers of the TRS are identified on the TRS's own website:

Executive Officers (Exhibit G-1)

- President - Jamie Wood
- Vice President - Terri Zane
- Recording Secretary - Shawn Vena
- Corresponding Secretary - Roseann Gunzelman
- Treasurer - F.J. Borowsky. I believe Mr. Borowsky is deceased.
- HIPAA Compliance Officer - Terri Zane

Line Officers (Exhibit G-2)

- Chief - George Jackson III
- Assistant Chief - Keith Zane
- EMS Captain - Stephen Cramer
- Special Operations Captain - David Klotz
- Lieutenant - Arron Morison
- Lieutenant - Bill Kayser

21.B. Four cadets and volunteers are identified on the TRS's own Facebook page:

Volunteers

- Alexis Gunzelman – Volunteer (Exhibit G-3)
- J. Henry – Volunteer (Exhibit G-4)

Cadets

- Cadet Ryan McLaughlin (Exhibit G-5)
- Cadet Mathew Kustrup (Exhibit G-5)

21.C. The following three photographs were taken from the TRS Facebook page and are titled “Tabernacle Rescue Squad-Cover Photos.” They are individually identified as “1 of 9,” “2 of 9” and “4 of 9.” Exhibit G-6, G-7, G-8 are true and accurate screenshots from the TRS’s Facebook page, which I took on April 29, 2017.

22. Eleven people are joint members of the TRS and the Tabernacle Fire Company No. 1. It is my understanding and belief that the identity of these joint members is generally known throughout the community.

- Gina Acerbo
- Stephen Cramer
- Ron Fedor
- Matt Kustrup
- Tammy Ley (aka: Tammy Marie)
- Arron Morrison
- David Newman
- Chase Vena
- Cuyler Vena
- Shawn Vena
- Keith Zane

23. The following ten people identify themselves as being associated with the TRS as members, volunteers or workers on their personal Facebook pages. These people are listed

below. Their relationship with the TRS is described in the same manner as it appears on their personal Facebook page.

24. Exhibits G-9 to G-18 are true and accurate screenshots from their personal Facebook page on April 25, 27-30, 2017. I have redacted my personal information from these screenshots. I have excluded people from the following list who are already listed in paragraphs 21 and 22 above.

- Shanalee Brennan - Emergency medical technician at Tabernacle Rescue Squad (Exhibit G-9)
- Justin Brown - Special Operations at Tabernacle Rescue Squad (Exhibit G-10).
- Ken Gerber, Sr. - Works at Tabernacle Rescue Squad; Former Police Chief (Exhibit G-11)
- Kira Lindaberry - Volunteering at Tabernacle Rescue Squad (Exhibit G-12)
- Aubrey Lynn - EMT at Tabernacle Rescue Squad (Exhibit G-13)
- Shane McGowan - EMS/Special Ops Cadet at Tabernacle Rescue Squad (Exhibit G-14)
- Jay O'Keefe - Tabernacle Rescue Squad (Exhibit G-15)
- Lauren Schweitzer - EMT at Tabernacle Rescue Squad (Exhibit G-16)
- Robb Wright - Emergency Medical Technician/Rescue Tech at Tabernacle Rescue Squad (Exhibit G-17)
- Daniel Zane - Former Emergency Medical Technician-Basic at Tabernacle Rescue Squad (Exhibit G-18)

24. It is my understanding that the following persons are or may have recently been members or volunteers at the TRS:

- JoAnn Gothardt Jackson
- Jim Scott
- Edward Sheasley
- Elva Maginnis Sheasley
- Kristina Ann Harrison (Sheasley)

25. Based on the information in paragraphs 21 through 24, 39 individuals are already publicly identified or are known in the community as being TRS officers, members, volunteers, cadets, EMT's or workers, excluding F.J. Borowsky (deceased). I believe the TRS has approximately 53 total members. Thus, approximately 74 percent, (39/53), of the TRS's roster is already publicly identified. Approximately, 83 percent, (5/6), of its executive officers are already publicly identified. [Note: Terri Zane holds two executive officer positions; F.J. Borowsky's successor is unknown]. And 100%, (6/6), of its line officers are already publicly identified.

26. On multiple occasions I and others have made public comments at Tabernacle Township committee meetings to the effect that Tabernacle Township should have the TRS roster to facilitate the Township's routine management responsibilities. The Tabernacle Committee has, for a long time, resisted this suggestion.

27. At the December 14, 2015 meeting of the Tabernacle Township Committee, a Committee Member Steven Lee, IV asked TRS President Jamie Wood to give a roster to the Township. President Wood refused explaining that "I don't think that this is something as a member they would ever want out in public." I attended this meeting, as I attend almost all Tabernacle Committee meetings, and both audio recorded and video recorded it, which I reviewed prior to making this Certification.

28. I believe the TRS subsequently provided its roster to Tabernacle Township with the belief or expectation that the roster would be placed in the EOP in order that it would not become available to the public.

29. Tabernacle Township's placement of the TRS roster into a document, such as the EOP, would be consistent with its past official actions to review or otherwise use TRS records, but prevent public access to them.

30. At the August 10, 2015 township meeting, Committeeman Rick Franzen said that "chalkboard presentations" were held with the TRS. The presentations were made by the TRS outside of a public meeting. Committee members attended the chalkboard presentations in groups of two or less to prevent a quorum which would have triggered the Open Public Meetings Act. I believe that a quorum of the committee members attended chalkboard presentations.

31. The purpose of the presentation was for individual committee members to review the TRS's insurance billing and revenue records so that it could determine that its proposed budget contribution to the TRS ". . . reasonably approximate[s the TRS's] otherwise uncollected cost sharing amounts" in compliance with the Office of Inspector General Advisory Opinion, No. 14-09, which was prepared at the request of the TRS. Exhibit H is a true and accurate copy of the aforementioned Advisory Opinion.

32. Committeewoman Kimberly Brown explained that the purpose of the "chalkboard" format was to prevent the TRS's revenue information from becoming a public record, which would be accessible under the Open Public Records Act. At the August 10, 2015 township meeting, Committeewoman Brown said "...they [TRS] made a presentation to the committee because they knew we were going to be budgeting and they showed us their numbers. We know if we take a document from them [TRS], and again, they're a private non-profit 501-

33. In 2015, Tabernacle Township applied to the New Jersey Department of Community Affairs, Local Finance Board, to dissolve Tabernacle Fire District #1, based on the Township Committee's finding that "there is a need to centralize the delivery and management of all emergency services in order to promote the professional, efficient, cooperative and effective delivery of all emergency services in the Township." The Township Committee also estimated that this would save taxpayers approximately \$50,000 annually. A true and correct copy of that statement is attached as Exhibit I.

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.

Dated: May 23, 2017


FRAN BROOKS