



From: Linda Forbes [mailto:LForbes@riverdaleborough.com]

Sent: Friday, July 24, 2009 2:52 PM

To: Boonton Township Clerk; Butler Clerk; Chatham Borough-Sue Caljean; Chatham Township Clerk-Joy Wiley; Chester Borough-Valerie Egan; Chester Twp. Clerk-Carol Iseemann; Denville Clerk - Donna Costello; Dover Clerk - Marge Verga; East Hanover Clerk - Marilyn Snow; Florham Park Clerk - Sheila Williams; Hanover Twp. - Joe Giorgio; Harding Twp. Clerk-Amanda Gildersleeve; Jefferson Twp. Clerk - Lydia Magnotti; Kinnelon Clerk-Beth Sebrovski; Lincoln Park Clerk-Penny Smith; Linda Forbes; Madison Clerk-Elizabeth Osborne; Mendham Clerk-Maureen Massey; Mendham Twp. Clerk-Ann Carlson; Mine Hill Clerk-Pat Korpus; Morris County Clerk - Joan Bramhall; Morris County Clerk Office-D. Ketchum; Morris Plains Clerk-June Uhrin; Morris Twp. Clerk-Cathy Amelio; Morristown Clerk-Matthew Shechauner; Mountain Lakes Clerk-Christina Whitaker; Mt. Arlington Clerk-Linda DeSantis; Lashway, Lisa; Netcong Clerk-Dolores Dalessandro; Pequannock Clerk-Dolores Sweeney; Randolph Clerk-Donna Marie Luciani; Carol Talerico; Rockaway Clerk-Sheila Seiferts; Rockaway Twp. Clerk-Mary Cilurso; Roxbury Clerk-Betty Lou DeCroce; Trudy Atkinson; Washington Twp-Dianne Gallets; Wharton Clerk-gevangalista@whartonnj.com

Subject: OPRA Resolution

Attached is a resolution adopted by the Mayor and Council of the Borough of Riverdale at a regular meeting held on July 20, 2009.

Linda C. Forbes
Deputy Clerk
Borough of Riverdale
(973) 835-4060 ext. 223

RESOLUTION NO. 62-2009

**RESOLUTION SUPPORTING AN AMENDMENT TO THE OPEN PUBLIC RECORDS
ACT**

WHEREAS, the Borough of Riverdale has consistently and reasonable fulfilled its responsibilities pursuant to the Open Public Records Act (N.J.S.A. 47:1A-1, et seq.); and

WHEREAS, notwithstanding the legitimate public interest which the Open Public Records Act is intended to protect, the broad scope of the Act allows for its abuse by individuals for an improper purpose, including, but not limited to, harassment of State, County, or Local Government, or governmental officials and employees; and

WHEREAS, there is a legitimate and pressing need to amend the Open Public Records Act to prevent improper use of the Act; and

WHEREAS, the Legislature of the State of California has recently introduced legislation to amend it Public Records Act to permit governmental entities to petition a Court of competent jurisdiction to issue a protective order limiting the number and scope of requests a requestor may make and/or eliminating a governmental entity's duty to respond to public record requests from the requestor in the future when said relief of appropriate given a demonstration by the governmental entity that the requestor has sought or is seeking governmental records for an improper purpose, including, but not limited to, the harassment of State, County, or Local Government, including officials and employees; and

WHEREAS, an amendment to the Open Public Records Act similar or equivalent to the pending California Legislation is necessary and appropriate.

NOW THEREFORE BE IT RESOLVED, that the Governing Body of the Borough of Riverdale, calls upon the State's Assembly and Senate to immediately enact an amendment to the Open Public Records Act equivalent to California Bill AB 520 (copy attached);

BE IT FURTHER RESOLVED that a copy of this resolution shall be distributed to Governor John S. Corzine, all representatives of the 26th Legislative District, and all Morris County Municipalities.

ATTEST:



Carol J. Talafico, RMC
Municipal Clerk

APPROVED:



William Budesheim
Mayor

ASSEMBLY BILL

No. 520

Introduced by Assembly Member Carter

February 25, 2009

An act to add Section 6256 to the Government Code, relating to public records.

LEGISLATIVE COUNSEL'S DIGEST

AB 520, as introduced, Carter. Public records.

The California Public Records Act requires state and local agencies to make their records available for public inspection and, upon request of any person, to provide a copy of any public record unless the record is exempt from disclosure.

This bill would, whenever it is made to appear by verified petition, authorize a superior court to issue a protective order limiting the number and scope of requests a requestor may make under the act. The bill would require the court, in issuing the order, to determine that the requestor has sought records under the act for an improper purpose, including, but not limited to, the harassment of a public agency or its employees.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 6256 is added to the Government Code,
- 2 to read:
- 3 6256. (a) Notwithstanding Section 6257.5, whenever it is made
- 4 to appear by verified petition to the superior court of the county

1 in which a requestor for public records under this chapter resides
2 or has a primary place of business, the court may issue a protective
3 order limiting the number and scope of requests a requestor may
4 make. The court may issue the protective order if it determines
5 that the requestor has sought records under this chapter for an
6 improper purpose, which includes, but is not limited to, the
7 harassment of a public agency or its employees. The petition shall
8 be accompanied by a declaration of facts by the public agency
9 withholding the records demonstrating that it has complied with
10 Section 6253.1 and has made a good faith effort to reach an
11 informal resolution of the issues relating to the records request.

12 (b) The order specified in subdivision (a) may limit, or in
13 appropriate circumstances, eliminate, the public agency's duty to
14 respond to public records requests from the requester in the future.

15 (c) In an action filed on or after January 1, 2010, an order of
16 the court, either limiting the number or scope of disclosure requests
17 or eliminating the public agency's duty to respond to records
18 requests from the requester in the future, is not a final judgment
19 or order within the meaning of Section 904.1 of the Code of Civil
20 Procedure from which an appeal may be taken, but shall be
21 immediately reviewable by petition to the appellate court for the
22 issuance of an extraordinary writ. Upon entry of any order pursuant
23 to this section, a party shall, in order to obtain review of the order,
24 file a petition within 20 days after service upon him or her of a
25 written notice of entry of the order, or within further time not
26 exceeding an additional 20 days as the trial court may for good
27 cause allow. If the notice is served by mail, the period within which
28 to file the petition shall be increased by five days. A stay of an
29 order or judgment shall not be granted unless the petitioning party
30 demonstrates that it will otherwise sustain irreparable damage and
31 probable success on the merits. Any person who fails to obey the
32 order of the court shall be cited to show cause why he or she is not
33 in contempt of court.

34 (d) For the purposes of this section, the county of residence
35 shall include any return address listed on the original letter
36 requesting the public records.