

# John Paff

P.O. Box 5424  
Somerset, New Jersey 08875-5424  
E-mail – CJSC@pobox.com  
April 11, 2007

Telephone – 732-873-1251

Fax – 908-325-0129

Hon. Paul C. Brush, Mayor and Council Members  
Township of Dover  
33 Washington St  
Toms River, NJ 08753

RE: **Notice of Intent to Sue**

Dear Mayor Brush and Members of the Township Council:

I am an open government advocate and chair the Open Government Task Force of the New Jersey Libertarian Party. Please consider this letter “anticipated litigation . . . in which the [Township Council] may become a party” and discuss it, in accordance with N.J.S.A. 10:4-12(b)(7), during closed session at your next meeting, which I believe will be held on May 8, 2007.

Enclosed is a draft civil complaint prepared by my attorney. We stand ready to file the complaint in the Superior Court unless the Township Council takes immediate steps to ensure that its nonpublic meeting minutes are made promptly available as required by the Open Public Meetings Act, N.J.S.A. 10:4-14.

So that I know that my position is being taken seriously, I ask that Mr. Mundy, who is receiving a copy of this letter, or someone else on the Council’s behalf, relate the Council’s position on this matter to me by fax to 908-325-0129 within a few days after the May 8, 2007 meeting.

Thank you for your attention to this matter.

Sincerely,



John Paff

cc. R. Garry Mundy, Esq., First Asst Township Attorney (*via Fax to 732-244-9883*)  
Walter M. Luers, Esq. (*via Fax*)  
Chairman, New Jersey Libertarian Party (*via PDF email attachment*)  
(*all with enclosures*)

Walter M. Luers  
Law Offices of Walter M. Luers, LLC  
165 First Avenue  
Atlantic Highlands, NJ 07716  
Phone: 732-872-8088  
Fax: 732-872-8044  
Email: wluers@hotmail.com  
Attorney for Plaintiff

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JOHN PAFF,	:	SUPERIOR COURT OF NEW JERSEY
Plaintiff,	:	LAW DIVISION, CIVIL PART
	:	OCEAN COUNTY
vs.	:	DOCKET NO.
	:	
DOVER TOWNSHIP COUNCIL a/k/a	:	Civil Action
TOMS RIVER TOWNSHIP COUNCIL	:	
Defendant	:	COMPLAINT
	:	

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Plaintiff John Paff, by way of complaint against the Defendant Dover Township Council a/k/a/ Toms River Township Council (hereafter "Defendant Council) states as follows:

1. Plaintiff John Paff is an individual who resides in Franklin Township, Somerset County, New Jersey and receives mail at P.O. Box 5424, Somerset, NJ 08875.
2. Defendant Council is a public body as that term is defined by N.J.S.A. 10:4-8(a).
3. On October 27, 2006, Plaintiff submitted a request to the Township of Dover Records Custodian for, among other records, "any and all minutes of any nonpublic meetings held by the council on October 24, 2006, September 26, 2006 and September 12, 2006." A copy of that request is attached as Exhibit 1.

4. By letter dated November 2, 2006 the Township informed Plaintiff that the requested “minutes of the ‘nonpublic’ ‘Executive Session’ meetings do not exist as they have not yet been prepared and approved.” A copy of that letter is attached as Exhibit 2.

5. On March 29, 2007, Plaintiff submitted another request to the Township of Dover Records Custodian for, among other records “any and all minutes of any nonpublic meetings held by the council on October 24, 2006, September 26, 2006 and September 12, 2006.” A copy of that request is attached as Exhibit 3.

6. By letter dated April 4, 2007, the Assistant Township Attorney informed Plaintiff that “the [requested nonpublic meeting] minutes are not available at this time as they have not yet been drafted or approved by the Council. A copy of that letter is attached as Exhibit 4.

**WHEREFORE**, Plaintiff demands judgment:

A. Declaring that Defendant violated the Open Public Meetings Act, specifically N.J.S.A. 10:4-14, by not making the nonexempt parts of its nonpublic meeting minutes “promptly available to the public.”

B. To fix a date by which Defendant will provide Plaintiff with access to Defendant’s October 24, 2006, September 26, 2006 and September 12, 2006 nonpublic meeting minutes, allowing Defendant, however, to redact portions of those minutes, only as permitted by law, provided that Defendant gives Plaintiff a written explanation of its reasons for each redaction in a manner that conforms to the standard set forth in Paff v. New Jersey Department of Labor, 379 N.J. Super. 346, 354 (2005).

C. Establishing a time period, akin to that established in Matawan Regional Teachers Association v. Matawan-Aberdeen Regional Board of Education, 212 N.J. Super.

328 (Law Div. 1986), within which Defendant Council must make its nonpublic meeting minutes promptly available to the public.

D. Enjoining Defendant Council from failing or refusing to make its nonpublic meeting minutes, with any appropriate redactions properly explained in accordance with Paff v. New Jersey Department of Labor, available to the public within the time period established by ¶ C above.

E. Awarding Plaintiff his costs of suit.

F. Such other relief as the Court deems equitable and just.

### **Designation of Trial Counsel**

Plaintiff designate Walter M. Luers as trial counsel in this action.

### **Certification Of No Other Actions**

Pursuant to R.4:5-1, it is hereby stated that the matter in controversy is not the subject of any other action pending in any other court or of a pending arbitration proceeding to the best of my knowledge and belief. There is, however, a matter involving the same parties pending before the Government Records Council (GRC Complaint No. 2007-72) alleging that Defendant improperly denied access to records other than nonpublic meeting minutes. Also, to the best of my belief, no other action or arbitration proceeding is contemplated. Further, other than the parties set forth in this pleading, I know of no other parties that should be joined in the above action. In addition, I recognize the continuing obligation of each party to file and serve on all parties and the Court an amended certification if there is a change in the facts stated in this original certification.

Respectfully submitted,

Dated: April \_\_\_\_, 2007

\_\_\_\_\_  
Walter M. Luers  
Attorney for Plaintiff

# John Paff

P.O. Box 5424  
Somerset, New Jersey 08875-5424  
E-mail – CJSC@pobox.com  
October 27, 2006

Telephone – 732-873-1251

Fax – 908-325-0129

Custodian of Records  
Dover Township

*(via Fax only to 732-341-3586)*

Dear Sir or Madam:

I cannot find Dover's Record Request Form on your website. Accordingly, I ask that you please accept this letter as my request for records under the Open Public Records Act and the common law. I would like to purchase photocopies of the following:

1. Attached is a November 17, 2005 letter from the NJ Sports and Exposition Authority to Vineland. I seek a copy of any similar letter from the Authority received by Dover.
2. Any and all resolutions passed during the October 24, 2006, September 26, 2006 and September 12, 2006 council meetings that authorized a nonpublic (i.e. closed or executive) meeting in accordance with N.J.S.A. 10:4-13.
3. Any and all minutes of any nonpublic meetings held by the council on October 24, 2006, September 26, 2006 and September 12, 2006.

I authorize up to \$6 for fulfillment of this request. If the amount needed exceeds this amount, please contact me.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'John Paff', with a large, stylized flourish at the end.

John Paff

**TOWNSHIP OF DOVER**

**County of Ocean**

Toms River, New Jersey 08753

*Reply To:* Dover Township Clerk's Office  
Ext. 8204

**Telephone: (732) 341-1000**  
**Fax Number: (732) 341-3586**

November 2, 2006

Dear Mr. John Paff,

In reference to your recent O.P.R.A. Request regarding "Off- Track Wagering Correspondence, your first request is not requesting a "specific document" therefore, your request is not compliant with OPRA requirements. Also, at this time, minutes of the "nonpublic" "Executive Session" meetings do not exist as they have not yet been prepared and approved. Attached, is a resolution which you requested which authorizes a nonpublic meeting in accordance with N.J.S.A. 10:4-13.

  
Sincerely,  
Cindy Asay

# John Paff

P.O. Box 5424  
Somerset, New Jersey 08875-5424  
E-mail – CJSC@pobox.com  
March 29, 2007

Telephone – 732-873-1251

Fax – 908-325-0129

Custodian of Records  
Dover Township

*(via Fax only to 732-244-9883)*

Dear Sir or Madam:

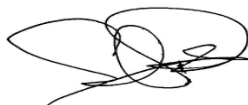
I cannot find Dover's Record Request Form on your website. Accordingly, I ask that you please accept this letter as my request for records under the Open Public Records Act and the common law. I would like to purchase photocopies of the following:

1. Any and all minutes of any nonpublic meetings held by the council on October 24, 2006, September 26, 2006 and September 12, 2006.
2. Attached is a copy of a page (p 92) from the September 12, 2006 public meeting minutes. I wish to purchase the page that immediately comes before that page (p 91?).
3. Any resolutions set forth within the minutes of the November 14, 2006; November 28, 2006; October 10, 2006 and January 10, 2006 public meetings that authorized a closed session in accordance with N.J.S.A. 10:4-13.

I authorize up to \$6 for fulfillment of this request. If the amount needed exceeds this amount, please contact me.

Thank you for your attention to this matter.

Sincerely,



John Paff

P.S. Until about mid-April, I will be receiving mail, temporarily, at

2106 S Cypress Bend Dr, Apt 102  
Pompano Beach, FL 33069-4457

During this time, I would appreciate it if you would correspond with me at the Florida address instead of the New Jersey address in the letterhead. My fax number of 908-325-0129 and email address of paff@pobox.com will automatically forward to my Florida address. My voice number in Florida is 954-978-6054. Thank you.

TOWNSHIP OF TOMS RIVER  
LAW DEPARTMENT  
33 WASHINGTON STREET  
TOMS RIVER, NEW JERSEY 08753



*R. Garry Mundy, Esq.,  
First Assistant Township Attorney*

*Telephone: (732) 341-1000  
Fax Number: (732) 244-9883*

April 4, 2007

**VIA TELEFAX (908) 325-0129, AND REGULAR MAIL**

John Paff  
2106 S. Cypress Bend Drive, Apt. 102  
Pompano Beach, FLA 33069-4457

Dear Mr. Paff:

This letter is in response to your OPRA requested date March 29, 2007. As you are aware, you currently have an action pending before the Government Records Council. The information you are seeking appears to be within the purview of that Council. As such, you should make such a request through your attorney, Drew Murray, Esq. I spoke with Mr. Murray on this issue, and after that conversation, agreed to proceed with your request. Mr. Murray also has a facsimile of your March 29, 2007, request. In the future, please have Mr. Murray process your OPRA request if it involves matters before the Government Records Council.

1. In reference to any and all minutes of any non-public meetings by the council on October 24, 2006, September 26, 2006 and September 12, 2006: the minutes are not available at this time as they have not yet been drafted or approved by the Council.
2. Page 91 from the September 12, 2006, Public Meeting Minutes: that page is available.
3. The resolution set forth within the minutes of November 14, 2006; November 28, 2006; and October 10, 2006 are available. The materials requested for January 10, 2006, are not available as they have not yet been drafted or approved.

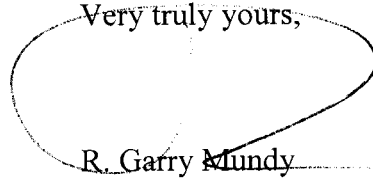
John Paff

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April 4, 2007

There are a total of eleven pages at a cost of \$8.00. Please provide a check in the amount of \$8.00 made payable to, "Township of Toms River", and deliver the same to the Toms River Township Clerk's Office. By way of copy, I am providing this response to your attorney, Drew Murray, Esq.

Very truly yours,

A handwritten signature in black ink, appearing to read "R. Garry Mundy", enclosed within a large, hand-drawn oval.

R. Garry Mundy  
First Assistant Township Attorney

RGM:lv

cc: Drew Murray, Esq.

Mark A. Troncone, Esq., Director of Law and Community Development

Mark Mutter, Township Clerk

Government Records Council, Trenton, New Jersey