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Although it is posted on the internet, this opinion is binding only on the
parties in the case and its use in other cases is limited. R.1:36-3.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-0837-15T2

ALEXIS SERRINGER,

Plaintiff-Appellant,

v.

OFFICE OF THE GOVERNOR
OF THE STATE OF NEW
JERSEY,

Defendant-Respondent.

Argued January 18, 2017 – Decided June 16, 2017

Before Judges Koblitz and Rothstadt.

On appeal from the Superior Court of New
Jersey, Law Division, Mercer County, Docket
No. L-1377-15.

Eric Dixon argued the cause for appellant.

Raymond R. Chance, III, Assistant Attorney
General, argued the cause for respondent
(Christopher S. Porrino, Attorney General,
attorney; Mr. Chance, of counsel; Valentina
M. DiPippo, Deputy Attorney General, on the
brief).

PER CURIAM

Plaintiff, Alexis Serringer, appeals from the Law Division's order dismissing her complaint that sought the production of documents from defendant, Office of the Governor of the State of New Jersey, pursuant to the Open Public Records Act (OPRA), N.J.S.A. 47:1A-1 to -13. Plaintiff submitted an OPRA request to defendant to provide all correspondence between it and Choose New Jersey, Inc. (Choose NJ) between January 1, 2013 and April 24, 2015. The request defined correspondence, but did not state the subject matter of the records sought. Defendant denied the request as overbroad, advised plaintiff of its technological limitations, and explained she could submit a new, more narrowly tailored OPRA request. Instead of responding, plaintiff filed this action. After considering plaintiff's complaint and the parties' arguments, Assignment Judge Mary C. Jacobson found that plaintiff's request was overbroad as it was not restricted to a discrete and limited subject matter and dismissed plaintiff's complaint with prejudice. On appeal, plaintiff challenges the judge's determination, arguing that her request was not overbroad, but was as specific as possible because she limited it to written communications, including facsimiles and e-mails, specified a date range, and narrowed the subject matter to Choose NJ. We disagree and affirm.

The facts are not in dispute. On April 25, 2015, plaintiff submitted an OPRA request to defendant requesting that it "[p]rovide all correspondence between (a) your office and (b) [Choose NJ], dated between January 1, 2013 and April 24, 2015. This correspondence is defined to include communications in paper, fax or e-mail format including e-mails sent to or received from 'choosenj.com.'" On May 11, 2015, citing Spectraserv, Inc. v. Middlesex County Utility Authority, 416 N.J. Super. 565, 576 (App. Div. 2010) and New Jersey Builders Ass'n v. New Jersey Council on Affordable Housing, 390 N.J. Super. 166, 171, 178 (App. Div.), certif. denied, 190 N.J. 394 (2007), defendant denied the request on the basis that it was overbroad and invalid. Defendant advised plaintiff that she could submit a new, more narrowly tailored OPRA request. Specifically, defendant stated:

If there are specific records that you seek, please identify them as explicitly as possible and we will attempt to locate the records for you. If you choose to do so, please be advised that due to current technological limitations in our Office's email system, we cannot perform office-wide email searches or searches for more than one keyword at a time. In addition, due to our system's limitations, we need the names of specific employees whose records you would like us to search using an identified keyword. To summarize, if you would like us to search for correspondence, in a new OPRA request, please identify the specific custodians whose accounts you would like searched, a specific subject matter and a limited date range.

Plaintiff did not respond to defendant's letter or submit a revised OPRA request. Instead, she commenced this action. After the parties made written submissions, Judge Jacobson considered their oral arguments on September 16, 2015, dismissed plaintiff's complaint, and placed her reasons on the record in a comprehensive oral decision.

Relying on MAG Entertainment, LLC v. Division of Alcoholic Beverage Control, 375 N.J. Super. 534 (App. Div. 2005), the judge reviewed the procedure for making an OPRA request and observed that it is the requester's obligation to "identify with reasonable clarity those documents that are desired, and that a party cannot satisfy this requirement by simply requesting all of an agency's documents." She further stated that plaintiff's refusal to put any limitations on the approximately 140 employees whose files needed to be searched demonstrated over-breadth because "every single one of them[,], their e-mail accounts[,], and their paper record[s] would have to be searched] without any topic limitation whatsoever."

Judge Jacobson acknowledged that defendant could have conducted a "reasonable search," but found that it "wouldn't have been responsive to the actual request that was received" because it is not "incumbent upon the agency under the law to provide a

partial [response] that would answer some but not the whole request." She also distinguished this case from Burke v. Brandes, 429 N.J. Super. 169 (App. Div. 2012), reasoning that unlike the request in Burke for "E-ZPass benefits provided to Port Authority retirees," there was no "discrete and limited subject matter" articulated here. On September 17, 2015, the judge entered an order memorializing her oral decision. This appeal followed.

"We review a trial judge's legal conclusions concerning access to public records under OPRA de novo[, but w]e will not disturb factual findings as long as they are supported by adequate, substantial and credible evidence." Paff v. Galloway Twp., 444 N.J. Super. 495, 501 (App. Div.), certif. granted, 227 N.J. 24 (2016) (citations omitted).

"Any analysis of OPRA must begin with the recognition that the Legislature created OPRA intending to make government records 'readily accessible' to the state's citizens 'with certain exceptions[] for the protection of the public interest.'" Gilleran v. Bloomfield, 227 N.J. 159, 170 (2016) (alteration in original) (quoting N.J.S.A. 47:1A-1); see also Mason v. City of Hoboken, 196 N.J. 51, 65 (2008). To effectuate that purpose, OPRA establishes a comprehensive framework for access to public records. Mason, supra, 196 N.J. at 57. OPRA requires, among other things, prompt

disclosure of records and provides different procedures to challenge a custodian's decision denying access. Ibid.

In assessing the sufficiency of the agency's proofs submitted in support of its claim for nondisclosure, "a court must be guided by the overarching public policy in favor of a citizen's right of access." Courier News v. Hunterdon Cty. Prosecutor's Office, 358 N.J. Super. 373, 383 (App. Div. 2003) (citing N.J.S.A. 47:1A-1). Absent the necessary proofs, "a citizen's right of access is unfettered." Ibid. If it is determined access has been improperly denied, the access sought shall be granted. Id. at 378 (citing N.J.S.A. 47:1A-6).

Despite that public policy, OPRA does not "'authorize a party to make a blanket request for every document' a public agency has on file. . . . Rather, a party requesting access to a public record under OPRA must specifically describe the document sought." Bent v. Twp. of Stafford Police Dept., Custodian of Records, 381 N.J. Super. 30, 37 (App. Div. 2005) (quoting Gannett N.J. Partners L.P. v. Cty. of Middlesex, 379 N.J. Super. 205, 219 (App. Div. 2005)). "While OPRA provides [a] . . . means of access to government documents not otherwise exempted from its reach, it is not intended as a research tool litigants may use to force government officials to identify and siphon useful information." Lagerkvist v. Office of Governor of State, 443 N.J. Super. 230,

236 (App. Div. 2015) (alterations in original) (quoting MAG Entm't, LLC, supra, 375 N.J. Super. at 546).

Blanket requests for unspecified documents are not "a proper request under OPRA[. The request] must identify with reasonable clarity those documents that are desired, and a party cannot satisfy this requirement by simply requesting all of an agency's documents." Bent, supra, 381 N.J. Super. at 37. "OPRA does not authorize unbridled searches of an agency's property," ibid., that "would substantially disrupt agency operations[. T]he custodian may deny . . . [it and] . . . attempt[] to reach a reasonable solution . . . that accommodates the interests of the requestor and the agency." N.J.S.A. 47:1A-5(g). A proper OPRA request must state a "specific subject matter that [is] clearly and reasonably described with sufficient identifying information" Burke, supra, 429 N.J. Super. at 176.

In order to limit a blanket request, the subject matter of the type of document sought should be identified in the request. We have determined requests that identified a specific subject matter with sufficient identifying information were not overly broad even where a custodian was required to search and locate records according to a specific topic area. For example, a request for "[a]ny and all settlements, releases or similar documents entered into, approved or accepted from 1/1/2006 to present" was

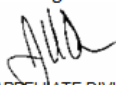
permitted by OPRA. Burnett v. Cty. of Gloucester, 415 N.J. Super. 506, 508 (App. Div. 2010) (alteration in original). "The fact that the plaintiff did not specify matters to which the settlements related 'did not render his request a general request for information obtained through research, rather than a request for a specific record.'" Burke, supra, 429 N.J. Super. at 177 (quoting Burnett, supra, 415 N.J. Super. at 513-14). We have also permitted an OPRA request, which was confined to a specific subject matter and that clearly and reasonably described the documents requested with sufficient identifying information. See id. at 172, 176, 178 (addressing a request for documents relating to E-ZPass benefits provided to Port Authority retirees). We concluded that the request for the specific documents was limited to particularized identifiable government records, namely, correspondence with another government entity, rather than information generally. Id. at 176. These permissible requests did not require a custodian to exercise discretion, survey employees, or conduct research, rather, the responsive records are self-evident. See id. at 177.

With these guiding principles in mind, we conclude from our review that plaintiff's request was overly broad. Plaintiff's failure to identify a subject matter for the correspondence exchanged between defendant and Choose NJ would have required every employee in defendant's office to engage in a search of all

of defendant's files to locate responsive documents, including a search of documents sent between every one of defendant's present and past employees and Choose NJ. "This was no 'routine search of files pertaining to a very narrowly specified topic.'" Lagerkvist, supra, 443 N.J. Super. at 237 (quoting Burke, supra, 429 N.J. Super. at 177). Plaintiff's "inquiry clearly exceeded the limits of OPRA. The denial of access was proper." Ibid.

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.


CLERK OF THE APPELLATE DIVISION