



State of New Jersey
GOVERNMENT RECORDS COUNCIL
101 SOUTH BROAD STREET
PO BOX 819
TRENTON, NJ 08625-0819

JON S. CORZINE
Governor

CHARLES A. RICHMAN
Acting Commissioner

FINAL DECISION

August 11, 2009 Government Records Council Meeting

James Cody
Complainant

Complaint No. 2008-162

v.

Middleton Township Board of Education (Monmouth)
Custodian of Record

At the August 11, 2009 public meeting, the Government Records Council (“Council”) considered the August 4, 2009 Findings and Recommendations of the Executive Director and all related documentation submitted by the parties. The Council voted unanimously to adopt the entirety of said findings and recommendations. The Council, therefore, finds that pursuant to MAG Entertainment, LLC v. Division of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005), Bent v. Stafford Police Department, 381 N.J. Super. 30, 37 (App. Div. 2005), Bart v. Passaic County Public Housing Agency, 406 N.J. Super. 445 (App. Div. 2009) and Donato v. Township of Union, GRC Complaint No. 2005-182 (January 2007), the Complainant’s OPRA request is invalid under OPRA because it is a broad general request for records and would require the Custodian to conduct research to discern which records may be responsive to the Complainant’s OPRA request. Accordingly, the Custodian has not unlawfully denied the Complainant access to the records requested. However, the Custodian was erroneous in asserting that OPRA exempts from disclosure government records that relate to a matter in litigation or in anticipation of litigation, as OPRA contains no such exemption.

This is the final administrative determination in this matter. Any further review should be pursued in the Appellate Division of the Superior Court of New Jersey within forty-five (45) days. Information about the appeals process can be obtained from the Appellate Division Clerk’s Office, Hughes Justice Complex, 25 W. Market St., PO Box 006, Trenton, NJ 08625-0006. Proper service of submissions pursuant to any appeal is to be made to the Council in care of the Executive Director at the State of New Jersey Government Records Council, 101 South Broad Street, PO Box 819, Trenton, NJ 08625-0819.

Final Decision Rendered by the
Government Records Council
On The 11th Day of August, 2009



Robin Berg Tabakin, Chair
Government Records Council

I attest the foregoing is a true and accurate record of the Government Records Council.

Janice L. Kovach
Government Records Council

Decision Distribution Date: August 13, 2009

**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
August 11, 2009 Council Meeting**

**James Cody¹
Complainant**

GRC Complaint No. 2008-162

v.

**Middleton Township Board of Education (Monmouth)²
Custodian of Records**

Records Relevant to Complaint: See Exhibit A.

Request Made: July 16, 2008

Response Made: July 25, 2008

Custodian: William Doering

GRC Complaint Filed: July 29, 2008³

Background

July 16, 2008

Complainant's Open Public Records Act ("OPRA") request. The Complainant requests the records relevant to this complaint listed above in a list attached to an official OPRA request form.

July 25, 2008

Custodian's response to the OPRA request. The Custodian responds in writing to the Complainant's OPRA request on the seventh (7th) business day following receipt of such request. The Custodian states that access to the records requested in Request Items Nos. 1-17 and Request Item No. 19 is denied because the requested items are the subject of pending or threatened litigation. The Custodian states that Request Item No. 18 is approved and the Complainant may review the five (5) proposals for the High School North Synthetic Turf Field Project ("North Field Project").

July 29, 2008

Denial of Access Complaint filed with the Government Records Council ("GRC").⁴ The Complaint states that he submitted his OPRA request on July 16, 2008. The Complainant states that on July 25, 2008, the Custodian unlawfully denied the Complainant access to the records requested.

¹ No legal representation listed on record.

² Represented by Christopher Parton, Esq., of Kenney, Gross, Kovats & Parton (Red Bank, NJ).

³ The GRC received the Denial of Access Complaint on said date.

⁴ The Complainant attached additional material that was not relevant to the adjudication of this Complaint. James Cody v. Middleton Township Board of Education (Monmouth), 2008-162 – Findings and Recommendations of the Executive Director

The Complainant did not agree to mediate this complaint.

August 15, 2008

Request for the Statement of Information sent to the Custodian.

August 22, 2008⁵

Custodian's Statement of Information ("SOI") with the following attachments:

- Complainant's OPRA request dated July 16, 2008;
- Letter from the Custodian to the Complainant dated July 25, 2008;
- Complainant's Denial of Access Complaint dated July 29, 2008.

The Custodian submitted the following index regarding the Complainant's OPRA request:

(A) List of all records responsive to Complainant's OPRA request (include the number of pages for each record).	(B) List the Records Retention Requirement and Disposition Schedule for each records responsive to the Complainant's OPRA request	(C) List of all records provided to Complainant, in their <u>entirety</u> or <u>with redactions</u> (include the <u>date</u> such records were provided).	(D) If records were disclosed with redactions, give a general nature description of the redactions.	(E) If records were denied in their entirety, give a general nature description of the record.	(F) List the legal explanation and statutory citation for the denial of access to records in their <u>entirety</u> or <u>with redactions</u>.
1. Copies of any and all letters, documentation, engineering reports, data and analysis including test results submitted to the District by the bonding company, Westchester Fire Insurance Company, in regards to determining the actual scope of work required to be performed by MondoUSA.	N/A	None.	N/A	N/A	No records exist which are responsive to this request. If such records did exist, they would fall within attorney-client privileges as a part of active, pending or anticipated litigation, as set forth in <u>N.J.S.A. 47:1A-1.1</u> . and <u>Paff v. Perth Amboy City Council</u> , (Appellate Division May 17, 2006) slip decision at 3.
2. Copies of any report,	N/A	None.	N/A	N/A	No records exist

⁵ The Custodian attached additional material that was not relevant to the adjudication of this Complaint. James Cody v. Middleton Township Board of Education (Monmouth), 2008-162 – Findings and Recommendations of the Executive Director

<p>letter or documentation including e-mails submitted to the District which demonstrates that the bonding company, Westchester Fire Insurance Company, has checked the field and has declared that the field is either built to the T & M specifications or not.</p>					<p>which are responsive to this request. If such records did exist, they would fall within attorney-client privileges as a part of active, pending or anticipated litigation, as set forth in <u>N.J.S.A. 47:1A-1.1</u> and <u>Paff v. Perth Amboy City Council</u>, (Appellate Division May 17, 2006) slip decision at 3.</p>
<p>3. Copy of a letter or response to the Districts claim in which the bonding company, Westchester Fire Insurance Company, "assumes ownership" of the project as represented to the public by the District.</p>	N/A	None.	N/A	N/A	<p>No records exist which are responsive to this request. If such records did exist, they would fall within attorney-client privileges as a part of active, pending or anticipated litigation, as set forth in <u>N.J.S.A. 47:1A-1.1</u> and <u>Paff v. Perth Amboy City Council</u>, (Appellate Division May 17, 2006) slip decision at 3.</p>
<p>4. Copies of all letters and communications including e-mails forwarded to the District from the bonding company, Westchester Fire Insurance Company, in regards to the claim the District has made against MondoUSA and defective product.</p>	N/A	None	N/A	<p>Correspondence among legal counsel for MondoUSA, the surety and School District regarding pending or anticipated litigation.</p>	<p>Referenced records are not government records as defined in <u>N.J.S.A. 47:1A-1.1</u> as they are not District records and are not maintained in the District, and if they were they would be protected as part of anticipated or pending litigation pursuant to <u>N.J.S.A. 47:1A-1.1</u>.</p>

5. Copies of all letters, e-mails and memorandum between the District administration and its employees regarding the North synthetic field project, field construction, field repairs, concerns and any recommended improvements including all on site and off site drainage components.	N/A	None	N/A	E-mails and memoranda among central administrators and facilities staff of the District.	Records are exempt from disclosure under the internal advisory consultative, deliberative exception at <u>N.J.S.A. 47:1A-1.1</u> .
6. Copies of all letters and communications, including e-mails, submitted to the District sent to MondoUSA from the bonding company, Westchester Fire Insurance Company, advising MondoUSA to make any specific repairs that it has identified as deficient.	N/A	None	N/A	Correspondence, if any, between MondoUSA and its surety, and/or among counsel for MondoUSA, its surety and Board Counsel.	Referenced records are not government records as defined in <u>N.J.S.A. 47:1A-1.1</u> . as they are not District records and are not maintained in the District, and if they were they would be protected as part of anticipated or pending litigation pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
7. Copies of all engineering reports and analysis submitted to the District and performed by MondoUSA and its subcontractors in regards to the scope of work they proposed to perform to date.	N/A	None	N/A	Correspondence, if any between MondoUSA and its surety.	Referenced records are not government records as defined in <u>N.J.S.A. 47:1A-1.1</u> . as they are not District records and are not maintained in the District, and if they were they would be protected as part of anticipated or pending litigation pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
8. Copies of all e-mails sent to and from the District; between MondoUSA and the District; between the Board members and administration; or between the	N/A	None	N/A	E-mails regarding MondoUSA's possible return to complete the project and address pending litigation.	Records are protected as part of anticipated or pending litigation pursuant to <u>N.J.S.A. 47:1A-1.1</u> .

administration and its employees, in regards to the North Field Project its deficiencies, work resume and proposed scope of work.					
9. Copies of all letters, including e-mails, sent to or from the District and TBM Associates regarding the North Field Project, its deficiencies and resolutions.	N/A	None	N/A	Discussion with professional consultant regarding conduct of Contractor in performing contract in light of anticipated litigation.	Records are protected as part of anticipated or pending litigation pursuant to <u>N.J.S.A. 47:1A-1.1</u>
10. Copies of all letters, including e-mails, sent to or from the District and the Lucarelli Group regarding the North Field Project, its deficiencies and resolutions.	N/A	None	N/A	Discussion with professional consultant regarding conduct of Contractor performing contract in light of anticipated litigation.	Records are protected as part of anticipated or pending litigation pursuant to <u>N.J.S.A. 47:1A-1.1</u>
11. Copies of all letters, e-mails, plans and specifications of all repairs, alterations, reconstruction or proposed improvements and concerns to the North Field proposed by District employees.	N/A	None	N/A	E-mails and memoranda among central administrators and facilities staff of the District.	Records are exempt from disclosure under the internal advisory consultative, deliberative exception at <u>N.J.S.A. 47:1A-1.1</u> .
12. Copies of all documents, letters or e-mails in which the District indicates that it accepts the scope of work as proposed by MondoUSA to rectify all known existing defects which work has been represented to begin the week of July 14, 2008.	N/A	None	N/A	N/A	Referenced records are not government records as defined in <u>N.J.S.A. 47:1A-1.1</u> . as they are not District records and are not maintained in the District, and if they were they would be protected as part of anticipated or pending litigation pursuant to <u>N.J.S.A. 47:1A-1.1</u> .

<p>13. Copies of all letters and communications between the District, MondoUSA and the bonding company, Westchester Fire Insurance Company, that have not been specifically requested herein.</p>	N/A	None	N/A	N/A	<p>Records maintained by legal counsel to the Board are both outside the scope of OPRA, <u>N.J.S.A. 47:1A-1.1</u>, and within the scope of attorney-client privilege.</p>
<p>14. Copies of all perk test reports, logs, summaries, data, performed and/or collected by the District, its employees, consultants, engineers and project managers. First known test: the Lucarelli Group indicated and represented to the Board of Education at a public board meeting that they had performed a perk test of the stone and that T & M also signed off on the change of stone. This report was previously requested by the Complainant and other board members, to date it has not been provided. Second round testing: North VP indicated and represented to the Board at a public Board meeting that they had performed testing in at least 8 locations and all tests failed.</p>	N/A	None	N/A	N/A	<p>No records exist which are responsive to this request. If such records did exist, they would fall within attorney-client privileges as a part of active, pending or anticipated litigation, as set forth in <u>N.J.S.A. 47:1A-1.1</u> and <u>Paff v. Perth Amboy City Council</u>, (Appellate Division May 17, 2006) slip decision at 3.</p>
<p>15. Copies of any letter in which T & M confirms or denies their specifications for the North Field Project are correct or deficient and or that the contractor</p>	N/A	None	N/A	N/A	<p>No records exist which are responsive to this request. If such records did exist, they would fall within attorney-client privilege as a</p>

varied from specified standards.					part of active, pending or anticipated litigation, as set forth in <u>N.J.S.A. 47:1A-1.1.</u> and <u>Paff v. Perth Amboy City Council</u> , (Appellate Division May 17, 2006) slip decision at 3.
16. Copies of all letters, e-mails and other documentation that was sent or received between the administration and the Board of Education regarding the five engineering proposals submitted to oversee the North Field Project reconstruction.	N/A	None	N/A	E-mails and memoranda among central administrators and facilities staff of the District.	Records are exempt from disclosure under the internal advisory consultative, deliberative exception at <u>N.J.S.A. 47:1A-1.1.</u>
17. Copies of all letters or documentation, including e-mails, which directs the contractor, MondoUSA, to make any specific repair or alteration to any component in order to meet the project specifications or resolve the known deficiencies.	N/A	None	N/A	N/A	No records exist which are responsive to this request. If such records did exist, they would fall within attorney-client privileges as a part of active, pending or anticipated litigation, as set forth in <u>N.J.S.A. 47:1A-1.1.</u> and <u>Paff v. Perth Amboy City Council</u> , (Appellate Division May 17, 2006) slip decision at 3.
18. All engineer proposals submitted to the District regarding the request for proposals regarding project management and consultant in response to the North Field Project deficiencies and reconstruction.	N/A	None	N/A	N/A	On July 25, 2008, the Custodian granted the Complainant access to this record.

19. Any and all pictures of the North Field Project during construction and evaluation of the project to date taken by any employees of the District, also any and all pictures taken by T & M engineers and the Lucarelli Group.	N/A	None	N/A	N/A	No records exist which are responsive to this request. If such records did exist, they would fall within attorney-client privileges as a part of active, pending or anticipated litigation, as set forth in <u>N.J.S.A. 47:1A-1.1</u> and <u>Paff v. Perth Amboy City Council</u> , (Appellate Division May 17, 2006) slip decision at 3.
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Analysis

Whether the Custodian unlawfully denied access to the requested records?

OPRA provides that:

“...government records shall be readily accessible for inspection, copying, or examination by the citizens of this State, *with certain exceptions...*” (Emphasis added.) N.J.S.A. 47:1A-1.

Additionally, OPRA defines a government record as:

“... any 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 ... or that has been received* in the course of his or its official business ...” (Emphasis added.) N.J.S.A. 47:1A-1.1.

OPRA places the onus on the Custodian to prove that a denial of access is lawful. Specifically, OPRA states:

“...[t]he public agency shall have the burden of proving that the denial of access is authorized by law...” N.J.S.A. 47:1A-6.

OPRA provides that government records made, maintained, kept on file, or received by a public agency in the course of its official business are subject to public access unless otherwise exempt. N.J.S.A. 47:1A-1.1. A custodian must release all

records responsive to an OPRA request “with certain exceptions.” N.J.S.A. 47:1A-1. Additionally, OPRA places the burden on a custodian to prove that a denial of access to records is lawful pursuant to N.J.S.A. 47:1A-6.

The Complainant submitted a nineteen (19) paragraph OPRA request on July 16, 2009. The Custodian responded in writing to the Complainant’s OPRA request on the seventh (7th) business day following receipt of said request. The Custodian denied access to the records requested in Request Items Nos. 1-17 and Request Item No. 19 because the requested items were the subject of pending or threatened litigation.

The New Jersey Superior Court has held that “[w]hile OPRA provides an alternative 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. Rather, OPRA simply operates to make identifiable government records ‘readily accessible for inspection, copying, or examination.’* N.J.S.A. 47:1A-1.” (Emphasis added.) MAG Entertainment, LLC v. Division of Alcoholic Beverage Control, 375 N.J.Super. 534, 546 (App. Div. 2005). The Court further held that “[u]nder OPRA, agencies are required to disclose only ‘identifiable’ government records not otherwise exempt ... In short, OPRA does not countenance open-ended searches of an agency’s files.” (Emphasis added.) *Id.* at 549.

Further, in Bent v. Stafford Police Department, 381 N.J. Super. 30, 37 (App. Div. 2005),⁶ the Superior Court references MAG in that the Court held that a requestor must specifically describe the document sought because OPRA operates to make identifiable government records “accessible.” “As such, a proper request under OPRA 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.”⁷

Moreover, in Bart v. Passaic County Public Housing Agency, Docket No. A-5049-07T3 (App. Div. 2009), the court stated that:

“The Act [OPRA] does not, however, require custodians of government records to undertake research for a requestor. The requestor must identify the records sought with specificity. The request may not be a broad, generic description of documents that requires the custodian to search the agency’s files and “analyze, compile and collate” the requested information.” (citing MAG Entertainment, LLC v. Division of Alcoholic Beverage Control, 375 N.J.Super. 534 (App. Div. 2005) and Bent v. Stafford Police Department, 381 N.J.Super. 30 (App. Div. 2005)).

Additionally, in Donato v. Township of Union, GRC Complaint No. 2005-182 (January 2007), the GRC held that:

⁶ Affirmed on appeal regarding Bent v. Stafford Police Department, GRC Case No. 2004-78 (October 2004).

⁷ As stated in Bent, *supra*.

“Pursuant to MAG, the Custodian is obligated to *search* her files to find the identifiable government records listed in the Complainant’s OPRA request (all motor vehicle accident reports for the period of September 5, 2005 through September 15, 2005). However, the Custodian is not required to *research* her files to figure out which records, if any, might be responsive to a broad or unclear OPRA request. The word *search* is defined as “to go or look through carefully in order to find something missing or lost. The word *research*, on the other hand, means “a close and careful study to find new facts or information.” (Emphasis added.)

The OPRA request in the complaint currently before the Council would require the Custodian to conduct research. The Complainant’s OPRA request seeks “any and all” letters, e-mails, reports, analyses, logs, plans, specifications, summaries, pictures, proposals and data on a variety of subjects and between numerous individuals pertaining to the North Field Project. In essence, the Complainant’s nineteen (19) paragraph OPRA request is a broad request for all the records in the Custodian’s file that relate to the North Field Project. The Custodian would have to conduct a close and careful study of every record in his possession to find those records that relate to the North Field Project. Pursuant to Bent v. Stafford Police Department, 381 N.J. Super. 30, 37 (App. Div. 2005), “a proper request under OPRA 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.” Furthermore, in Bart v. Passaic County Public Housing Agency, 406 N.J. Super. 445 (App. Div. 2009), “the request may not be a broad, generic description of documents.”

Therefore, pursuant to MAG Entertainment, LLC v. Division of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005), Bent v. Stafford Police Department, 381 N.J. Super. 30, 37 (App. Div. 2005), Bart v. Passaic County Public Housing Agency, 406 N.J. Super. 445 (App. Div. 2009) and Donato v. Township of Union, GRC Complaint No. 2005-182 (January 2007), the Complainant’s OPRA request is invalid under OPRA because it is a broad general request for records and would require the Custodian to conduct research to discern which records may be responsive to the Complainant’s OPRA request. Accordingly, the Custodian has not unlawfully denied the Complainant access to the records requested. However, the Custodian was erroneous in asserting that OPRA exempts from disclosure government records that relate to a matter in litigation or in anticipation of litigation, as OPRA contains no such exemption.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that pursuant to MAG Entertainment, LLC v. Division of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005), Bent v. Stafford Police Department, 381 N.J. Super. 30, 37 (App. Div. 2005), Bart v. Passaic County Public Housing Agency, 406 N.J. Super. 445 (App. Div. 2009) and Donato v. Township of Union, GRC Complaint No. 2005-182 (January 2007), the Complainant’s OPRA request is invalid under OPRA because it is a broad general request for records and would require the Custodian to conduct research to discern which records may be responsive to the Complainant’s OPRA request. Accordingly, the Custodian has not unlawfully denied the Complainant access to the

records requested. However, the Custodian was erroneous in asserting that OPRA exempts from disclosure government records that relate to a matter in litigation or in anticipation of litigation, as OPRA contains no such exemption.

Prepared By: Sherin Keys, Esq.
Case Manager

Approved By: Catherine Starghill, Esq.
Executive Director

August 4, 2009

EXHIBIT A

Request for Public Records
Middletown Board of Education
County of Monmouth

Requested by: JAMES CODY
Address: 183 Withersburg Drive DR. LIVERETT NJ 07738

Phone and/or Fax: 732-904-2898 FAX 732-546-8279

Signed: [Signature] Date: July 16, 2008
To be Completed by the Custodian of Records ALSO E-MAIL

Request Approved or Denied	To Be Provided By	Fees Charged
* See letter attached		
*		
*		
*		

Clearly print a brief description of the record (s) requested:
1. SEE ATTACH LIST
2. 1-19 REQUESTS
3.
4.

Total Charges

[Signature] Signature of Custodian
7/25/08 Date

*If Request is denied, the reasons for denial follow:

- _____
- _____
- _____
- _____

This form must be completed and presented to the Office of The Board Secretary between the hours of 8 a.m. and 4 p.m., Monday - Friday when offices are normally open. A Board Official will determine appropriate fees, if applicable, to be charged for this request. Fees must be paid in advance. Requested records will be made available as soon as possible, but not later than seven business days after receiving the request provided that the record is currently available and not in storage or archived.
A person making a request of public records who is denied such access, may institute a proceeding to challenge the custodian's decision by filing an action in Superior Court; or in lieu of filing an action in Superior Court, file a complaint with the Government Records Council established pursuant to Section 8 of P.L. 2001, c. 404 (C.47:1A-7)

Subj: **O.P.R.A. Request for Middletown North Turf Field project,**
Date: 7/15/2008 1:58:57 P.M. Eastern Daylight Time
From: JAMESICCDy
To: doeringb@middletownk12.org
CC: cbparton@hotmail.com

E-MAIL July 15, 2008 HAND-DEL July 16, 2008 1030 AM

Mr William Doreing
Business Administrator / Board Secretary

The following request for documents is hereby requested and in regards to the Middletown High School North field project and abatement/reconstruction work. If no such document, letter, email, report or otherwise exist, simply indicate "no document exists."

1. Provide copies of any and all letters, documentation, engineering reports, data and analysis including test results submitted to the district by the bonding company, Westchester Fire Insurance Company in regards to determining the actual scope of work required to be performed by MondoUSA.
2. Provide copies of any report, letter or documentation including emails submitted to the district which demonstrates that the bonding company, Westchester Fire Insurance Company has checked the field and has found to be either built to the T&M specifications or not.
3. Provide copy of a letter or response to the districts claim in which the bonding company, Westchester Fire Insurance Company "assumes ownership" of the project as represented to the public by the district.
4. Provide copies of all letters and communications including emails forwarded to the district from the bonding company, Westchester Fire Insurance Company in regards to the claim the district has made against MondoUSA and defective product.
5. Provide copies of all letters, emails and memorandum between the district administration and its employees regarding the North synthetic field project, field construction, field repairs, concerns and any recommended improvements including all on site and off site drainage components.
6. Provide copies of all letters and communications including emails submitted to the district sent to MondoUSA from the bonding company, Westchester Fire Insurance Company advising MondoUSA to make any specific repairs that it has identified as deficient.
7. Provide copies of all engineering reports and analysis submitted to the district and performed by MondoUSA and its subcontractors in regards to the scope of work they propose to perform to date.
8. Provide copies of all emails sent to and from the district, between MondoUSA and the district, between the board members and administration, between the administration and its employees in regards to the north Field project its deficiencies, work resume and proposed scope of work.
9. Provide copies of all letters including emails sent to or from the district and T&M Associates regarding the North field project, its

deficiencies and resolutions.

10. Provide copies of all letters including emails sent to or from the district and the Lucarelli Group regarding the North field project, its deficiencies and resolutions.

11. Provide copies of all letters, emails, plans and specifications of all repairs, alterations, reconstruction or proposed improvements and concerns to the field proposed by district employees.

12. Provide copies of all documents, letters or emails in which the district indicates that it accepts the scope of work as proposed by MondoUSA to rectify all known existing defects which has been represented to begin "the week of July 14, 2008."

13. Provide copies of all letters and communications between the district, MondoUSA and the bonding company, Westchester Fire Insurance Company that have not been specifically requested herein.

14. Provide copies of all "perk test" reports, logs, summaries, data, performed and or collected by the district, its employees, consultant's, engineers and project managers. First known test: The Lucarelli group indicated and represented to the board of education in public at a board meeting that "they had performed a perk test of the stone" and that "T&M also signed off on the change of stone." This report was previously requested by myself and other board members, to date it has not been provided. Second round testing: North VP indicated and represented to the board in public that at a board meeting that "they had performed testing in at least 8 locations and all test failed."

15. Provide copies of any letter in which T&M confirms or denies their specifications for the North field are correct or deficient and or that the contractor varied there from.

16. Provide copies of all letters, emails and other documentation that was sent or received between the administration and board of education regarding the five engineering proposals submitted to oversee the North field project reconstruction.

17. Provide copies of all letters or documentation, including emails which directs the contractor MondoUSA to make any specific repair or alteration to any component to meet the project specifications or resolve the known deficiencies.

18. Provide access to all engineer proposals submitted to the district in regards to the request for proposals regarding project management and consultant in response to the North field project deficiencies and reconstruction.

19. Provide any and all pictures taken of the North Field Turf project during construction and evaluation of the project to Date. by any employees of the district ,also any and all pictures taken by T & M engineers, and The Lucarelli Group.

Thank You

James Cody
183 Whispering Pines Dr
Lincroft NJ 07738

via -E-Mail