

TOWN OF GUTTENBERG

MUNICIPAL BUILDING
6808 Park Avenue
Guttenberg, N.J. 07093

Tel: 908-8315
Fax: 908-8332



RESPOND TO:

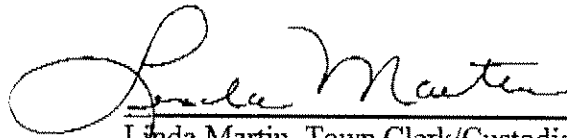
Certification by Linda Martin

Linda Martin, Town Clerk of the Town of Guttenberg and Custodian of Records hereby certifies as follows.

- 1) I make this Certification in response to complainant Michael DeLuca's complaint that he did not receive documents, that were available, to his April 18, 2006 request forms.
- 2) As I had stated in prior Certifications (as this is one of many times that Mr. DeLuca has unsuccessfully brought the Town of Guttenberg to the Record Council) Mr. DeLuca makes a request on a certain day. Then, as he is receiving the documents that responds to that request, he expands the request and complains that we have not complied. I attach all of the documents that were forwarded to Mr. DeLuca based upon his April 18, 2006 request. As the Record Council can see, the are extensive.
- 3) Also attached are all of Mr. DeLuca's follow up requests after he received the documents on May 10, 2006. The Electrical Inspector even went to the extraordinary measure of attempting to meet with Mr. DeLuca to explain that the documents that he was requesting did not exist.
- 4) Finally, on June 21, 2006, I advised Mr. DeLuca that there were no permits issued and that I had given him everything that he requested.
- 5) Based upon all of the above, I would respectfully advise the Records Council that in response to Mr. DeLuca's request, I, in good faith, not only gave him everything that we had available but even generated documents to assist him. In addition, we have a longstanding offer, that has never been accepted by Mr. DeLuca, that he can come in, review any files that we have in the Town of Guttenberg and we will copy any documents he request.

- 6) The Records Council must do something to stop the harassment of the Town of Guttenberg Officials by Mr. DeLuca. You will note from your prior files, this is a continuing pattern by Mr. DeLuca. He is absolutely abusing the system for his own purposes. I would respectfully request that not only the Record Council dismiss this Denial but also issue an order that Mr. DeLuca cannot file any new Denial Complaints without the prior approval of an Official of the New Jersey Government Records Council. The Town of Guttenberg, which has only 8,000 residents is spending an extraordinary amount of time in responding to Mr. DeLuca's request and responding to his subsequent complaint of alleged denial to each and every request.

I certify that the foregoing statements are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

A handwritten signature in cursive script, reading "Linda Martin". The signature is written in black ink and is positioned above a horizontal line.

Linda Martin, Town Clerk/Custodian of Records

Michael Deluca
7000 Blvd. East Apt# 31C
Guttenberg, New Jersey 07093
Home: 201-295-1192

Marion Davies, Case Manager
Government Records Council
101 South Broad Street
Trenton NJ 08625-0819
E-mail: grc@dca.state.nj.us

Re: Michael Deluca vs. Town of Guttenberg, 2006-126

Dear Ms. Davis,

In item number 2 of Ms. Martin's Certification she claims that I expanded my request. This is not true. I asked for the full file on the installation of the Fire Safety System. The permits and decibel readings would be included in the file. Even if they were not sure if permits should have been included, my follow up letter on May 18, 2006 specifically mentions that I did not receive them and requests them, as all of other letters do after May 18, 2006.

In item number 3 of Ms. Martin's Certification she mentions the inspector's offer to speak with him. I did speak with him of June 6, 2006. He told me on that day that he was not responsible for Records; he said the office staff is responsible. He told me the reason I have not received the permits I requested is due to an "accident". They misunderstood my request. Even though I mention missing permits in every follow-up request. On this day he also explained to me, "there are no decibel readings". It took from April 18, 2006 until June 6, 2006 to get that answer. He memorialized that answer in his June 8, 2006 letter. (Attached)

In item number 4 of Ms. Martin's Certification, she claims that on June 21, 2006 she explained to me that no permits were issued and that she gave me everything requested. This is a complete fabrication of the facts, at best, as evidenced by the Fire Sub Code Official's June 8, 2006 letter to me. (Attached). In paragraph 3 of the second page, he claims, as I explained in #3, that it was an "accident" as the reason I still have not received the permits. To further prove item # 4 of Ms. Martin's certification is objectively false is the fact that on June 29, 2006, I finally received all the permits for the Fire safety System. There are approximately four pages per permit. I have attached some of the permits but there are many more that I received on June 29, 2006. I can send them to you if needed. In my July 3, 2006 letter, I thank her for the permits! How can she possibly say in item #4 that she explained to me that no permits exist?

In item number 5:

To accuse me of abusing the system because I file complaints when public records are denied is completely outrageous and without merit. To recommend to the Government Records Council that I be punished for my responses to their noncompliance is equivalent to a mugger complaining to the police that one of his victims hit him while they were being robbed. If the Town of Guttenberg followed the rules of OPRA, there wouldn't be any repeated requests and complaints and no need for the Town of Guttenberg's baseless accusations.

I hope that you will consider when making your determination, the fact that every item on the Certification can be disproved with my request letters, included in their package, and with the letter and documents from their own Official.

Very truly yours,
Michael Deluca



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

VINCENT P. MALTESE, Chair
COMMISSIONER SUSAN BASS LEVIN
ACTING COMMISSIONER LUCILLE DAVY
ROBIN BERG TABAKIN
DAVID FLEISCHER

CATHERINE STARGHILL Esq., Executive Director

Toll Free: 866-850-0511
Fax: 609-633-6337
E-mail: grc@dca.state.nj.us
Web Address:
www.nj.gov/grc

December 1, 2006

Mr. Charles Daglian
Miller & Galdieri
32 Jones Street
Jersey City, NJ 07306

VIA FACSIMILE: 201-653-0130

RE: DeLuca v. Town of Guttenberg, GRC Complaint No. 2006-126

Dear Mr. Charles Daglian,

In keeping with the Government Records Council's ("GRC") responsibility to investigate alleged denials of access to government records pursuant to N.J.S.A. 47:1A-7(e), we require additional information from your office. In a **legal certification signed by the Records Custodian**, please respond to the following:

1. According to the Complainant's May 18, 2006 letter to the Custodian, the Complainant was provided some records responsive to his April 18, 2006 OPRA request. However, according to our records, the Custodian did not provide a written response to said request until June 21, 2006. Who initially responded to the Complainant's request and on what date? Please provide copies of any responsive correspondence, if any.
2. In the Custodian's June 21, 2006 response to the Complainant, she indicated that Sub Code Officials advised her that no permits existed. However, the Complainant asserts receiving permits on June 29, 2006, which are responsive to his OPRA request. Who released said permits to the Complainant and on what date did they become available?

Please submit the Custodian's signed certification, pursuant to N.J. Court Rules, by the close of business on December 6, 2006. Should you have any questions, please feel free to contact me.

Sincerely,


Dara Lownie
Case Manager

dlownie@dca.state.nj.us

Phone: (609) 341-3479

Fax: (609) 633-6337

Cc: Michael DeLuca via e-mail

Linda Martin via facsimile

GRC Complaint Process

Last printed 8/2/2006

10. If you have not already done so, indicate whether you believe the GRC should make a determination as to whether the complaint is within the GRC's jurisdiction or frivolous or without any reasonable factual basis by setting forth all facts and legal arguments in support of your claims in an attached written statement marked "Item 10."

see attached.

By signing this Statement, I certify:

- That I am the Custodian of Records for the Public Agency;
- That I am the Custodian charged by the Public Agency with the responsibility for responding to the request for records on which this complaint is based;
- That the documents attached hereto are true copies of all documents sent or received by the records Custodian or staff;
- A copy of this Statement of Information will be sent to the Complainant simultaneously with its being mailed to the GRC; and
- 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. R. 1:1-4.

Signature:

Linda Martin

Printed Name:

Linda Martin

Position:

Town Clerk

Date:

8/2/06

SCHEDULE A

FIRE SUB-CODE OFFICIAL

RECEIVED

OPRA REQUEST

APR 19 2006

Michael Deluca
7000 Blvd East Apt 31C
Guttenberg, New Jersey 07093
Date: 04-19-06

TOWN CLERK
GUTTENBERG, NJ

Open Records Request, Building Department Guttenberg New Jersey

Fire Subcode Official

The full file on the Galaxy Towers from the Fire subcode official(s) relating to the Fire Safety System installation from the beginning of the Fire Safety system installation to the present (2004, 2005, 2006). Including but not limited to; reports, inspections, decibel readings, tests, letters to and from Galaxy management, contractors, engineers, consultants, professionals, attorneys, violations, and all other documents related to the Fire Safety system.

I would also like to know the approximate amount of time spent at the Galaxy per week by the subcode official inspecting the work.

Thank You
Mike Deluca
Martha DiGiovanni



OPRA REQUEST LINDA MARTIN PUBLIC RECORDS

Michael DeLuca
7000 Blvd East Apt 31C
Guttenberg, New Jersey 07093
Date: 05-18-06

RECEIVED
MAY 18 2006
TOWN CLERK
GUTTENBERG, NJ

Open Records Request, Building Department Guttenberg New Jersey

Dear Ms. Martin

Tomorrow will be one month since my original request for the full file on the Galaxy Fire safety system installation from the fire and electrical sub-code officials. I have received some of the records I requested but have not received some that were specifically requested by name in my request. One of the most important of my requests is the decibel reading for the speakers that were installed and approved by your officials for Tower 1. If you could please contact the officials and get me the decibel readings, approvals, permits, inspections and any violations, I would appreciate it. I know you are busy and I think I have been very patient, but these records or an explanation of why I am not receiving them, should have been given to me within 10 days of my original request.

Thank you very much for you anticipated cooperation

Mike DeLuca
Martha DiGiovanni

Mike DeLuca
5/18/06
From Fire official

LINDA

I HAVE GIVEN YOU ALL THE RECORDS + Insp Reports THAT I HAVE. THE DECIBEL READINGS ARE UNDER THE CONTROL OF

THE SUPERVISING ENGINEER. THOSE READINGS + THE HEIGHT OF THE SPEAKERS MUST BE GIVEN TO THE BUILDING DEPARTMENT WHEN THEY APPLY FOR FINAL APPROVALS OF THE SYSTEM IN EACH TOWER. AT THIS TIME THE SYSTEM IS NOT COMPLETE
AKL 5/19/06

OPRA REQUEST LINDA MARTIN PUBLIC RECORDS

Michael Deluca
7000 Blvd East Apt 31C
Guttenberg, New Jersey 07093
Date: 05-18-06

RECEIVED

MAY 25 2006

TOWN CLERK
GUTTENBERG, NJ

Open Records Request, Building Department Guttenberg New Jersey

Dear Ms. Martin

Tomorrow will be one month since my original request for the full file on the Galaxy Fire safety system installation from the fire and electrical sub-code officials. I have received some of the records I requested but have not received some that were specifically requested by name in my request. One of the most important of my requests is the decibel reading for the speakers that were installed and approved by your officials for Tower 1. If you could please contact the officials and get me the decibel readings, approvals, permits, inspections and any violations, I would appreciate it. I know you are busy and I think I have been very patient, but these records or an explanation of why I am not receiving them, should have been given to me within 10 days of my original request.

Thank you very much for you anticipated cooperation

Mike Deluca
Martha DiGiovanni

25/06
May 24, 2006
Ms. Martin,

It is now 36 days since my original request and I still have not received permits, violations or an explanation of why I am not receiving them.

Thank you
Michael R. Deluca

THANK YOU FOR THE ANSWER ABOUT THE
DECIBEL READINGS. RECEIVED 5-20-06
MJD