

DATE: March 20, 2017

TO: Assembly Speaker Vincent Prieto and All Members of the General Assembly

FROM: Robbinsville Township Mayor Dave Fried
Dan Schuberth, Council President; Vincent Calcagno, Council Vice President
Sheree McGowan, Councilwoman; Christine Ciaccio, Councilwoman;
Ron Witt, Councilman

RE: **Assembly Bill 4532 (DeAngelo/Danielson/Watson/Bucco exempts certain personal information from the State's open public records law; bars attorney's fees award in denial of access proceeding in certain circumstances.**

Posted for a vote on March 23, 2017 before the General Assembly

The five-member governing body of the Robbinsville Township Council, along with Mayor Dave Fried, urge you to vote in favor of Assembly Bill A-4532 on Thursday, March 23.

This bill proposes limited, commonsense reforms to the existing Open Public Records Act (OPRA) by exempting personal information contained in pet and home license records from public access. It maintains OPRA as a powerful tool for ensuring transparency in local government while putting into place safeguards regarding citizens' privacy and safety.

OPRA is a well-intended law that provides citizens with the tools to hold local government accountable. However, as it is currently written, OPRA also provides unscrupulous individuals with opportunities to abuse the public trust and even to threaten public safety. Like many municipalities in New Jersey, Robbinsville Township requires residents to license their dogs with the Township, with the fees used to fund our animal control services. Similarly, Robbinsville Township requires residents to acquire permits and obtain inspections for newly installed home alarm systems to ensure that the systems are installed properly, and so accurate information about possible home invasions can be relayed to our police department. Currently, all of the information residents provide to the Township through these two processes (name, address, phone number) are available to anyone who requests it through OPRA.

Recently, the owner of an invisible fence company located outside of Robbinsville recognized a potential marketing opportunity through OPRA, and he requested the personal information of all of our residents who had followed the law and licensed their dogs. When we refused to honor his request, arguing such a request was made solely for the purpose of benefiting a private company and not for the purpose of government transparency and the broader public good, the owner sued Robbinsville Township. We are currently in the process of litigating this issue. While one could argue that this invasion of residents' privacy is relatively benign, we are concerned about the chilling effect this could have on our residents' trust in our municipal government.

Should residents who choose not to install home alarm systems, for example, be made to live in fear that they will be targeted for burglaries because their home does not appear on the list of home alarm inspections easily obtained by a criminal through OPRA? Should residents have to think twice about following the law and licensing their dogs because they worry about their private information ending up in the wrong hands? Furthermore, should municipalities and taxpayers be shouldered with the costs of providing lists to private companies to aid in their marketing efforts? For these reasons, we argue in support of the commonsense reforms proposed in Assembly Bill A-4532, which this governing body believes represents very little change to the existing OPRA law.

The Robbinsville Township Council recently passed a resolution in support of A-4532 (below), and the bill has received the support of the NJ League of Municipalities, the NJ Conference of Mayors, and the Municipal Clerks' Association of NJ. We urge you to vote in favor of this bill on Thursday, and put in place reasonable safeguards over citizens' privacy and safety while still maintaining OPRA as a powerful tool for ensuring government accountability.

11/3

**A RESOLUTION SUPPORTING A-4532
EXEMPTING PERSONAL INFORMATION FROM OPRA LAW**

WHEREAS, the Township of Robbinsville has concerns with how government can do a better job to protect the public's rights to privacy and to protect taxpayer dollars; and

WHEREAS, the Township of Robbinsville finds that a substantial number of OPRA requests are for commercial and solicitation purposes, which is not the intent of OPRA; and

WHEREAS, while the OPRA law states that governments have a responsibility to safeguard citizen's private information, the law is unclear as to when personal information should be dispersed, resulting in courts having to rely on subjective balancing tests to determine which personal information can or cannot be disclosed; and

WHEREAS, the disclosure of a person's name, address, telephone number, and e-mail address could potentially adversely affect the privacy of citizens with unwarranted solicitation and the possibility of harm to that person or to their property; and

WHEREAS, the original intent of OPRA was not for unwarranted solicitation and invasion of privacy; and

WHEREAS, the release of personal information could also adversely affect a citizen's willingness to provide their personal information to a government agency knowing that their personal information may not be protected from disclosure to anyone who files an OPRA request; and

WHEREAS, citizens should not have to worry that if they follow State and local laws that require names, addresses, e-mails and phone numbers, such as applying for a permit or license, that their personal information will be dispersed to anyone who wishes to see it under the OPRA law; and

WHEREAS, governments should do whatever is in their power to protect their citizens against harm, solicitation, nuisances, and theft; and

WHEREAS, Assemblyman Wayne DeAngelo has proposed bill A-4532, which would exempt from disclosure any portion of a personal government record which discloses any personal identifying information, including the name, address, telephone number, and e-mail address of any person; and

WHEREAS, this bill also bars attorney's fees from being awarded in denial of access proceedings when the decision to deny was reasonable and made in good faith after due diligence; and

WHEREAS, the Township Council of the Township of Robbinsville commends Assemblyman DeAngelo on his intent to protect the public's personal information and also protect taxpayers from unnecessary increases to their taxes due to OPRA lawsuits where the custodian of records did their due diligence and acted in good faith.

NOW THEREFORE BE IT RESOLVED, that the Township Council of the Township of Robbinsville, County of Mercer, State of New Jersey, hereby supports Assembly Bill A-4532, and calls upon the Legislature and Governor to enact A-4532 into law to protect the privacy rights of our residents and protect tax payer dollars.

BE IT FURTHER RESOLVED, that the Township Council of the Township of Robbinsville hereby urges Assembly Speaker Prieto to offer this bill for a full vote of the Assembly as soon as possible; and

BE IT FURTHER RESOLVED, that the Township Council of the Township of Robbinsville hereby urges Senate President Sweeney to introduce a companion bill to this legislation in the Senate; and

BE IT FURTHER RESOLVED, that a copy of this resolution be forwarded to the Legislators of the 14th Legislative District, Assembly Speaker Vincent Prieto, Senate President Stephen Sweeney, and the Governor of the State of New Jersey.

I certify this to be a true copy of a Resolution adopted by the Township Council of the Township of Robbinsville at a meeting held on February 23, 2017.

Michele Seigfried, Township Clerk