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Attorneys for Plaintiff

TINA RENNA, Plaintiff, v. UNION COUNTY PERFORMING ARTS CENTER, Defendant.	SUPERIOR COURT OF NEW JERSEY LAW DIVISION: UNION COUNTY DOCKET NO. _____ CIVIL ACTION COMPLAINT
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Plaintiff Tina Renna, by and through her undersigned counsel Law Offices of Walter M. Luers, LLC, complaining of the Defendant, alleges as follows:

THE PARTIES

1. Plaintiff resides at 202 Walnut Avenue, Cranford, New Jersey 07016. Plaintiff is the President of the Union County Watchdog Association, Inc., which is a non-profit organization that is dedicated to educating the public about the operations of county government in Union County. Plaintiff is frequently critical of Union County, its elected officials, agents and employees.

2. Defendant Union County Performing Arts Center is a tax-exempt 501(c)(3) non-profit organization whose principal place of business is 1601 Irving Street, Rahway, New Jersey 07065.

3. Defendant is a “public agency” within the meaning of the Open Public Records Act (“OPRA”), *N.J.S.A. 47:1A-1.1* and *Fair Share Housing Center, Inc. v. New Jersey State League of Municipalities*, 207 N.J. 489 (2011).

JURISDICTION AND VENUE

4. The Court has subject matter jurisdiction of this action pursuant to *N.J.S.A 47:1A-6* and the common law.

5. Venue is proper in this court pursuant to *R. 4:3-2(a)(2)* because the relevant events occurred in this County, the public agency Defendant is located in this County and the Plaintiff resides in this County.

FACTUAL ALLEGATIONS

6. On October 24, 2011, Plaintiff transmitted an OPRA request for copies of documents to Samson Steinman, who is the Executive Director of the Union County Performing Arts Center (“UCPAC”).

7. In that OPRA request, Plaintiff requested copies of “All contracts for acts hired for the Union County 2010 and 2011 Musicfest” and the five most recent “meeting minutes available for the Union County Performing Arts Center Board of Directors.”

8. On November 1, 2011, UCPAC, through Executive Director Steinman, denied access to the records requested by Plaintiff. Executive Director Steinman claimed that UCPAC is not subject to OPRA.

9. According to a report by the Union County Prosecutor’s Office, UCPAC is a non-profit (501(c)(3) corporation that originally opened on October 16, 1928, as the Rahway Theater. After it fell into disrepair, Union County paid for a \$6.2 million renovation and expansion of the theatre, which was completed in 2007. Union County also purchased the theatre for \$1.3 million and leased it back to UCPAC for the

nominal amount of \$1 per year. Finally, it was renamed the “Union County Performing Arts Center” in 1985 after the Union County Board of Chosen Freeholders passed a resolution officially renaming it.

10. According to public records, UCPAC derives most of its revenue from its contracts with performing artists who perform at “Musicfest,” which is an annual outdoor concert that is funded, managed and promoted by Union County. These performance artists appear at “Musicfest” pursuant to agreements between them and UCPAC.

11. These facts, most important of which is the sweetheart \$1 annual lease paid by UCPAC to the County, proves that Union County is the de facto controller and owner of UCPAC.

FIRST COUNT
(Open Public Records Act)

12. Plaintiff repeats and incorporates by reference each and every allegation contained in paragraphs 1-11 of the Complaint as though fully set forth at length herein.

13. Defendant violated OPRA by not providing copies of the documents requested by Plaintiff.

SECOND COUNT
(Common Law Right of Access)

14. Plaintiff repeats and incorporates by reference each and every allegation contained in paragraphs 1-13 of the Complaint as though fully set forth at length herein.

15. Plaintiff has a common law right to disclosure of the records requested by her.

16. Plaintiff has a legitimate private interest and wholesome public interest in the requested records.

17. Defendants' interests in privacy and confidentiality, if any, do not exceed Plaintiff's and the public's interest in disclosure.

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment against the Defendants:

A. Declaring, pursuant to the Declaratory Judgment Act, pursuant to the Uniform Declaratory Judgment Act, *N.J.S.A. 2A:16-50, et seq.*, that the Defendant is a "public agency" under OPRA and that Defendant violated OPRA or the common law right of access by not providing the documents requested by Plaintiff;

B. Ordering Defendant to provide copies of the records requested by the Plaintiff on October 25, 2011;

C. Awarding Plaintiff costs and reasonable attorneys' fees; and

D. For such other or further relief as this Court deems just and equitable.

CERTIFICATION PURSUANT TO R. 4:5-1

I certify that the dispute about which I am suing is not the subject of any other action pending in any other court or a pending arbitration proceeding to the best of my knowledge and belief. Also, to the best of my knowledge and belief no other action of arbitration proceeding is contemplated. Further, other than the parties set forth in this complaint, I know of no other parties that should be made a part of this lawsuit. In addition, I recognize my continuing obligation 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.

CERTIFICATION PURSUANT TO R. 1:38-7(b)

I certify that confidential personal identifiers have been redacted from documents now submitted to the Court, and will be redacted from all documents submitted in the future.

CERTIFICATION PURSUANT TO R. 4:69-4

I certify that no transcript of proceedings below exists, as this is a direct appeal from the agency's denial of access to records.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, Walter M. Luers, Esq. is designated as trial counsel on behalf of Plaintiff.

Respectfully Submitted,

LAW OFFICE OF WALTER M. LUERS, LLC

DATED: December 15, 2011

By: 

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