

**VIA EMAIL ONLY**Re: Supplemental Response to Attorney General February 22, 2016 APRA Decision

Dear Mr. MacDougal:

In my capacity as the Quonochontaug Central Beach Fire District (“QCBFD”) Moderator and the person responsible to ensure that public records requests directed to the QCBFD are processed properly,<sup>1</sup> this letter provides a further response to the Attorney General Decision of February 22, 2016 (“Decision”) concerning your Access to Public Records Request pursuant to the relevant provisions of the R.I. General Laws Access to Public Records Act (“APRA”). As you recall, in my March 7, 2016 letter (“March Letter”), QCBFD provided you with the requested annual notices of the six (6) subcommittees that were required to be sent to you in accordance with the Decision (known as “Required Response #2”). Further, the March Letter requested more time regarding QCBFD’s response to the Decision’s first required response as stated below:

Here, we conclude that neither remedy is appropriate at this time and that this Department [of the Attorney General] will allow the [QCBFD] the opportunity to remedy these violations. With respect to the Fire District’s failure to respond to Category No. 15 of your January 18, 2014 request, it is unclear whether the audio tapes exist and/or are within the Fire District’s custody or control, however the Fire District must respond to this aspect of your request in a manner consistent with APRA and this finding. [“Required Response #1”]

This supplemental letter addresses Required Response #1. QCBFD’s official response to Required Response #1 is that in accordance with § 38-2-7(c), QCBFD does not have or maintain the requested records. More specifically, while the QCBFD Clerk at the times of the records sought (i.e. 2011, 2012, and 2013 Annual Meetings)<sup>2</sup> used a tape recorder to record portions of those meetings to assist her in compiling the annual meeting minutes for those years, such tapes were not “public records” of QCBFD as defined in APRA. See R.I.G.L. § 38-2-2 (“‘Public record’ . . . shall mean . . . sound recordings made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency”)(emphasis added); see also §38-2-2(4)(K) (“Preliminary drafts, notes, impressions, working papers, and work products” shall not be deemed public). Here the requested records would be exempt because they would not have been created in connection with the transaction of official business by QCBFD, and even if such records were deemed “public records” under § 38-2-2(4), they would be exempt as preliminary drafts or notes of the QCBFD Clerk under § 38-2-2(4)(K) as the final intended product were the Annual Meeting Minutes for the years in question.

**However**, in the interests of expediency, mounting legal costs, and the purpose of APRA, **and without setting a precedent**, included with this letter, in the body of the email, are links to audio from the 2013 Annual Meeting. QCBFD does have the ability to digitally duplicate the original 2 audio cassette tapes, which the former QCBFD Clerk was able to locate. However, no tapes or audio exist for 2011 and 2012. The audio links for the 2013 Annual Meeting are in order, but were otherwise divided into 25

<sup>1</sup> QCBFD Clerk Thomas Wildman, who normally is responsible for responding to such issues, was unavailable on vacation when the March Letter was written by me. As such, it is only logical for me to give this supplemental response.

<sup>2</sup> As you know, the QCBFD Clerk at the relevant annual meetings was Heather Cady.

total “tracks” (23 for the first tape; 2 for the second tape) by the software program used to digitize the cassette tapes, then to links. Please note that there is a gap of audio between the first 23 links and the last two links, due to the first audio cassette tape ending and the second tape needing to be opened and placed in the recorder.

This response is QCBFD’s full compliance with your Access to Public Records request. Since this matter was answered by me as the Chief Administrative Officer of QCBFD under APRA for convenience, no appeal to the local chief administrative officer under § 38-2-8(a) is available. As such, if you are aggrieved by this decision, you may file a complaint with the Rhode Island Attorney General pursuant to § 38-2-8(b).

Sincerely,

Nancy Matthews, Moderator  
QCBFD  
Cc: Board of Governors