



State of New Jersey  
GOVERNMENT RECORDS COUNCIL

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CHRIS CHRISTIE  
Governor

KIM GUADAGNO  
Lt. Governor

RICHARD E. CONSTABLE, III  
Acting Commissioner

FINAL DECISION

February 28, 2012 Government Records Council Meeting

James D'Andrea  
Complainant

Complaint No. 2007-64

v.

New Jersey Department of Community Affairs,  
Division of Local Government Services  
Custodian of Record

At the February 28, 2012 public meeting, the Government Records Council ("Council") considered the February 21, 2012 Findings and Recommendations of the Executive Director and all related documentation submitted by the parties. The Council, by a majority vote adopted the entirety of said findings and recommendations. The Council, therefore, finds that:

1. The Custodian's failure to respond in writing to the Complainant's OPRA request either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days results in a "deemed" denial of the Complainant's OPRA request pursuant to N.J.S.A. 47:1A-5.g., N.J.S.A. 47:1A-5.i., and Kelley v. Township of Rockaway, GRC Complaint No. 2007-11 (Interim Order October 31, 2007).
2. Because the Complainant's request is overly broad, fails to identify specific government records sought and would require the Custodian to conduct research in order to determine the records which may be responsive to the request, the Complainant's request is invalid under OPRA. MAG Entertainment, LLC v. Division of Alcoholic Beverage Control, 375 N.J. Super. 534 (App. Div. 2005), Bent v. Stafford Police Department, 381 N.J. Super. 30 (App. Div. 2005), New Jersey Builders Association v. New Jersey Council of Affordable Housing, 390 N.J. Super. 166 (App. Div. 2007) and Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009).
3. The Custodian violated N.J.S.A. 47:1A-5.g. and N.J.S.A. 47:1A-5.i. by not responding to the Complainant's OPRA request within the statutorily mandated seven (7) business days. However, the Complainant's request is invalid under OPRA because it is overly broad, fails to identify specific government records sought and would require the Custodian to conduct research. Additionally, the evidence of record does not indicate that the Custodian's violation of OPRA had a positive element of conscious wrongdoing or was intentional and deliberate. Therefore, it is concluded that the Custodian's actions do not rise to the level of a knowing and



willful violation of OPRA and unreasonable denial of access under the totality of the circumstances.

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 28<sup>th</sup> Day of February, 2012

Robin Berg Tabakin, Esq., Chair  
Government Records Council

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

Denise Parkinson Vetti, Esq., Secretary  
Government Records Council

**Decision Distribution Date: March 5, 2012**

**STATE OF NEW JERSEY  
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director  
February 28, 2012 Council Meeting**

**James D'Andrea<sup>1</sup>  
Complainant**

**GRC Complaint No. 2007-64**

v.

**New Jersey Department of Community Affairs,  
Division of Local Government Services<sup>2</sup>  
Custodian of Records**

**Records Relevant to Complaint:** Copies of all reports, recommendations, analyses, etc., done by the Department of Community Affairs (“DCA”) for the Union City Police Department from August 2002 to present.

**Request Made:** January 26, 2006

**Response Made:** February 21, 2006

**Custodian:** Marc Pfeiffer

**GRC Complaint Filed:** February 13, 2007<sup>3</sup>

**Background**

**January 26, 2006**

Complainant’s Open Public Records Act (“OPRA”) request. The Complainant requests the records relevant to this complaint listed above on an official OPRA request form.

**February 21, 2006**

Custodian’s response to the OPRA request. The Custodian responds in writing to the Complainant’s OPRA request on the sixteenth (16<sup>th</sup>) business day following receipt of such request. The Custodian states that the Complainant has made several OPRA requests for reports, recommendations and analyses regarding the Union City Police Department over the last several years. The Custodian states that any records responsive which are disclosable have already been provided to the Complainant. The Custodian further states that there are no new publicly disclosable records responsive to the Complainant’s request.

**February 27, 2006**

Letter from the Complainant to Ms. Susan Jacobucci (“Ms. Jacobucci”), Director of the Division of Local Government Services (“DLGS”).<sup>4</sup> The Complainant states that

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<sup>1</sup> No legal representation listed on record.

<sup>2</sup> Represented by DAG Donald Palombi, on behalf of the NJ Attorney General.

<sup>3</sup> The GRC received the Denial of Access Complaint on said date.

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he has made numerous OPRA requests to DLGS for a copy of the review of the Union City Police Department requested by Mayor Brian Stack in May 2003. The Complainant includes a copy of the Custodian's e-mail dated February 21, 2006 and a letter from Mayor Stack to former DCA Commissioner Levin dated May 21, 2003. The Complainant also states that he sent Ms. Jacobucci an e-mail dated August 11, 2005 responding to a denial of a separate OPRA request. The Complainant further states that he did not receive a response to his e-mail dated August 11, 2005.

### **March 10, 2006**

Letter from Ms. Jacobucci to the Complainant. Ms. Jacobucci states that although she was not Director of DLGS as the time of the review of the Union City Police Department, it was her understanding that DLGS conducted an informal review of the police department in an effort to establish a table of organization that would be agreeable to Union City and DLGS. Ms. Jacobucci also states that the establishment of a table of organization was required in the Memorandum of Understanding between DLGS and the City of Union City. Ms. Jacobucci also states that DLGS did not at any time prepare or issue a report based on the informal review of police operations. Ms. Jacobucci further states that any written material was advisory and consultative and exclusively for internal purposes of determining the level of Distressed Cities Program aid to be given to Union City. Lastly, Ms. Jacobucci states that DLGS cannot provide the Complainant with a report that does not exist.

### **September 15, 2006**

Letter from Complainant to Ms. Jacobucci. The Complainant states that Ms. Jacobucci never stated why Mayor Stack did not receive a report. The Complainant also states that Mayor Stack requested a formal review of his current table of organization in his letter to former Commissioner Levin dated May 21, 2003. The Complainant further states that Mr. Watkins stated in his letter to Mayor Stack that a review would be beneficial for the police department. The Complainant also states that these letters indicate that a formal report would be completed and forwarded to Mayor Stack. In addition, the Complainant states that the language used in these letters does not indicate that only an informal review to be used exclusively for internal purposes would be the final work product. The Complainant inquires how Mayor Stack knew whether any changes should be made to the table of organization if he never received a formal report.

### **November 20, 2006**

Letter from Ms. Jacobucci to the Complainant. Ms. Jacobucci states that the DLGS did not prepare or issue a report based on the informal review of the Union City Police Department. She further states that any written document is advisory, consultative and deliberative material and was intended for internal purposes. Ms. Jacobucci further states that there are no records responsive to the Complainant's request.

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<sup>4</sup> Ms. Jacobucci is the former Director of the DLGS.

**January 29, 2007<sup>5</sup>**

Letter from the Government Records Council (“GRC”) to the Complainant. The GRC states that a Denial of Access Complaint form is enclosed. The GRC states that if the Complainant believes that he was denied access to the record requested then he may file an action in Superior Court or a Denial of Access Complaint with the GRC. The GRC also states that the Complainant may download a Denial of Access Complaint from the GRC’s website.

**February 13, 2007**

Denial of Access Complaint filed with the GRC with the following attachments:

- Letter from Brian P. Stack, Mayor of Union City, to Susan Bass Levin, (former) Commissioner of the Department of Community Affairs.<sup>6</sup>
- Letter from Matthew U. Watkins, former Director of DLGS, to Mayor Stack dated June 5, 2003.<sup>7</sup>
- Complainant’s OPRA request dated January 26, 2006
- E-mail from the Custodian to the Complainant dated February 21, 2006
- Letter from the Complainant to Ms. Jacobucci dated February 27, 2006
- Letter from Ms. Jacobucci to the Complainant dated March 10, 2006
- Letter from the Complainant to Ms. Jacobucci dated September 15, 2006
- Letter from Ms. Jacobucci to the Complainant dated November 20, 2006

The Complainant states that his argument for release of the records responsive to his request is set forth in detail in his letters to Ms. Jacobucci. The Complainant states that Ms. Jacobucci falsely stated in her letter to the Complainant that DLGS did not prepare or issue any reports based on the informal review of the Union City Police Department. The Complainant states that a report was completed in 2003 in the same format as a similar report prepared in May 2001. The Complainant asserts that the report is three (3) pages and contains two (2) attachments.

**February 13, 2007**

Offer of Mediation sent to both parties.

**February 14, 2007**

Facsimile from the Complainant to the GRC. The Complainant agrees to mediate this complaint.

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<sup>5</sup> This letter from the GRC to the Complainant responded to correspondence from the Complainant to the Office of the Inspector General (“OIG”), which was forwarded to the GRC on January 4, 2007 by the OIG.

<sup>6</sup> Mayor Stack states in his letter that on July 24, 2002 the City of Union City and DLGS entered into a memorandum of agreement establishing a table of organization within the Union City Police Department. Mayor Stack requests DLGS review the current table of organization in order to determine if it has met its goals and objectives. Mayor Stack also states that the review would be beneficial in determining if any changes should be made to improve the overall effectiveness of the police department.

<sup>7</sup> Mr. Watkins responds to Mayor Stack’s request for a review of the table of organization and states that Commissioner Levin agrees with Mayor Stack’s assessment that a review would be beneficial to determine if the current table of organization has met its goals and objectives. Mr. Watkins also states that Mayor Stack should contact Jean Janukowicz to arrange a mutually agreeable schedule to begin the review with George DeOld and Richard Richardella, Public Safety Specialists.

**February 22, 2007**

Facsimile from the Custodian to the GRC. The Custodian agrees to mediate this complaint.

**February 22, 2007**

Complaint referred to mediation.<sup>8</sup>

**June 12, 2008**

Complaint referred back from mediation.

**July 15, 2008**

Request for the Statement of Information sent to the Custodian.

**August 15, 2008<sup>9</sup>**

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

- Complainant's OPRA request dated January 26, 2006
- Letter from the Custodian to the Complainant dated February 21, 2006
- Letter from Custodian's Counsel to the Complainant dated July 31, 2007

The Custodian certifies that his search of records responsive included the files of the following staff members involved in the Union City Police Department review: 1) Judy Tripodi, 2) George DeOld, 3) Richard Richardella, and 4) Director of DLGS. The Custodian also certifies that any records responsive to the Complainant's request were not destroyed. The Custodian certifies that the Records Destruction Schedule established and approved by New Jersey Department of State, Division of Archives and Records Management is one (1) year for internal correspondence and three (3) years for administrative memoranda. The Custodian reiterates the facts and arguments stated in the July 31, 2007 certification and notes that in that certification, the Custodian argues that the draft report requested by the Complainant constitutes inter-agency advisory, consultative and deliberative material which is not subject to disclosure under OPRA. The Complainant certifies that inter-agency records were not provided to the Complainant.<sup>10</sup>

**March 18, 2011**

Telephone call from the GRC to the Complainant. The GRC asks the Complainant if he did in fact receive a copy of the record responsive to his OPRA

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<sup>8</sup> Additional correspondence was submitted by the parties. However, pursuant to the Uniform Mediation Act, N.J.S.A. 2A:23C-1 et seq., communications that take place during the mediation process are not deemed to be public records subject to disclosure under OPRA. N.J.S.A. 2A:23C-2. All communications which occur during the mediation process are privileged from disclosure and may not be used in any judicial, administrative or legislative proceeding, or in any arbitration, unless all parties and the mediator waive the privilege. N.J.S.A. 2A:23C-4.

<sup>9</sup> Additional correspondence was submitted by the parties. However, said correspondence is either not relevant to this complaint or restates the facts/assertions already presented to the GRC.

<sup>10</sup> The Custodian's SOI certification, certifying that records responsive were not provided to the Complainant, contradicts his certification dated July 31, 2007.

request. The Complainant states that he was inadvertently provided with a copy of the report, parts of which were redacted, and that attachments to the report were not included.

### Analysis

#### **Whether the Custodian timely responded to the Complainant's OPRA request?**

OPRA provides that:

“[i]f the custodian is unable to comply with a request for access, the custodian shall indicate the specific basis therefor on the request form and promptly return it to the requestor. The custodian shall sign and date the form and provide the requestor with a copy thereof ...” N.J.S.A. 47:1A-5.g.

OPRA also provides that:

“[u]nless a shorter time period is otherwise provided by statute, regulation, or executive order, a custodian of a government record shall grant access ... or deny a request for access ... as soon as possible, but *not later than seven business days after receiving the request* ... In the event a custodian fails to respond within seven business days after receiving a request, *the failure to respond shall be deemed a denial of the request* ...” (Emphasis added.) N.J.S.A. 47:1A-5.i.

OPRA mandates that a custodian must either grant or deny access to requested records within seven (7) business days from receipt of said request. N.J.S.A. 47:1A-5.i. As also prescribed under N.J.S.A. 47:1A-5.i., a custodian's failure to respond within the required seven (7) business days results in a “deemed” denial. Further, a custodian's response, either granting or denying access, must be in writing pursuant to N.J.S.A. 47:1A-5.g.<sup>11</sup> Thus, a custodian's failure to respond in writing to a complainant's OPRA request either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days results in a “deemed” denial of the complainant's OPRA request pursuant to N.J.S.A. 47:1A-5.g., N.J.S.A. 47:1A-5.i., and Kelley v. Township of Rockaway, GRC Complaint No. 2007-11 (Interim Order October 31, 2007).

The evidence of record indicates that the Custodian received the Complainant's OPRA request relevant to this complaint on January 26, 2006 and responded in writing to such request on February 21, 2006, sixteen (16) business days following receipt of the request.

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<sup>11</sup> It is the GRC's position that a custodian's written response either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days, even if said response is not on the agency's official OPRA request form, is a valid response pursuant to OPRA.

Therefore, the Custodian's failure to respond in writing to the Complainant's OPRA request either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days results in a "deemed" denial of the Complainant's OPRA request pursuant to N.J.S.A. 47:1A-5.g., N.J.S.A. 47:1A-5.i., and Kelley, supra.

**Whether the Complainant's OPRA request for reports, recommendations, analyses, etc., done by the DCA for the Union City Police Department from August 2002 to present is invalid under OPRA?**

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's request is overly broad, fails to identify specific government records, and is therefore invalid under OPRA. 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),<sup>12</sup> 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."<sup>13</sup>

Additionally, in New Jersey Builders Association v. New Jersey Council on Affordable Housing, 390 N.J. Super. 166, 180 (App. Div. 2007) the court cited MAG by stating that "...when a request is 'complex' because it fails to specifically identify the documents sought, then that request is not 'encompassed' by OPRA..." The court also quoted N.J.S.A. 47:1A-5.g in that "[i]f a request for access to a government record would substantially disrupt agency operations, the custodian may deny access to the record after attempting to reach a reasonable solution with the requestor that accommodates the interests of the requestor and the agency." The court further stated that "...the Legislature would not expect or want courts to require more persuasive proof of the substantiality of a disruption to agency operations than the agency's need to...generate new records..."

Furthermore, in Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009), the Council held that "[b]ecause the Complainant's OPRA requests # 2-5 are not requests for identifiable government records, the requests are invalid and the Custodian has not unlawfully denied access to the requested records pursuant to 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)."

This matter is substantially different from the facts presented in Burnett v. County of Gloucester, 415 N.J. Super. 506 (App. Div. 2010). In Burnett, the plaintiff appealed from an order of summary judgment entered against him in his suit to compel production by the County of Gloucester of documents requested pursuant to OPRA, consisting of "[a]ny and all *settlements, releases or similar documents* entered into, approved or accepted from 1/1/2006 to present." *Id.* at 508. (Emphasis added). The Appellate Division determined that the request sought a specific type of document, although it did not specify a particular case to which such document pertained, and was therefore not overly broad. *Id.* at 515-16.

In the matter before the Council, the Complainant's request seeks copies of all reports, recommendations, analyses, etc., done by the Department of Community Affairs ("DCA") for the Union City Police Department from August 2002 to present. The Complainant's request fails to identify specific government records sought. The

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<sup>12</sup> Affirmed on appeal regarding Bent v. Stafford Police Department, GRC Case No. 2004-78 (October 2004).

<sup>13</sup> As stated in Bent, *supra*.

Complainant's request would require the Custodian to conduct research through every file in his possession about Union City to locate and identify responsive records.

Therefore, because the Complainant's request is overly broad, fails to identify specific government records sought and would require the Custodian to conduct research in order to determine the records that may be responsive to the request, the Complainant's request is invalid under OPRA. MAG Entertainment, LLC v. Division of Alcoholic Beverage Control, 375 N.J. Super. 534 (App. Div. 2005), Bent v. Stafford Police Department, 381 N.J. Super. 30 (App. Div. 2005), New Jersey Builders Association v. New Jersey Council of Affordable Housing, 390 N.J. Super. 166 (App. Div. 2007) and Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009).

**Whether the Custodian's delay in responding to the OPRA request rises to the level of a knowing and willful violation of OPRA and unreasonable denial of access under the totality of the circumstances?**

OPRA states that:

"[a] public official, officer, employee or custodian who knowingly or willfully violates [OPRA], and is found to have unreasonably denied access under the totality of the circumstances, shall be subject to a civil penalty ..." N.J.S.A. 47:1A-11.a.

OPRA allows the Council to determine a knowing and willful violation of the law and unreasonable denial of access under the totality of the circumstances. Specifically OPRA states:

"... If the council determines, by a majority vote of its members, that a custodian has knowingly and willfully violated [OPRA], and is found to have unreasonably denied access under the totality of the circumstances, the council may impose the penalties provided for in [OPRA]..." N.J.S.A. 47:1A-7.e.

In the matter before the Council, the evidence of record indicates that the Custodian responded to the Complainant's OPRA request on the sixteenth (16<sup>th</sup>) business day after the Complainant sent same stating any records responsive which are disclosable have already been provided to the Complainant. However, the Complainant's request is invalid under OPRA because it is overly broad, fails to identify specific government records sought and would require the Custodian to perform research to respond to the request.

Certain legal standards must be considered when making the determination of whether the Custodian's actions rise to the level of a "knowing and willful" violation of OPRA. The following statements must be true for a determination that the Custodian "knowingly and willfully" violated OPRA: the Custodian's actions must have been much more than negligent conduct (Alston v. City of Camden, 168 N.J. 170, 185 (2001); the Custodian must have had some knowledge that his actions were wrongful (Fielder v.

Stonack, 141 N.J. 101, 124 (1995)); the Custodian's actions must have had a positive element of conscious wrongdoing (Berg v. Reaction Motors Div., 37 N.J. 396, 414 (1962)); the Custodian's actions must have been forbidden with actual, not imputed, knowledge that the actions were forbidden (Berg); the Custodian's actions must have been intentional and deliberate, with knowledge of their wrongfulness, and not merely negligent, heedless or unintentional (ECES v. Salmon, 295 N.J. Super. 86, 107 (App. Div. 1996)).

The Custodian violated N.J.S.A. 47:1A-5.g. and N.J.S.A. 47:1A-5.i. by not responding to the Complainant's OPRA request within the statutorily mandated seven (7) business days. However, the Complainant's request is invalid under OPRA because it is overly broad, fails to identify specific government records sought and would require the Custodian to conduct research. Additionally, the evidence of record does not indicate that the Custodian's violation of OPRA had a positive element of conscious wrongdoing or was intentional and deliberate. Therefore, it is concluded that the Custodian's actions do not rise to the level of a knowing and willful violation of OPRA and unreasonable denial of access under the totality of the circumstances.

### **Conclusions and Recommendations**

The Executive Director respectfully recommends the Council find that:

1. The Custodian's failure to respond in writing to the Complainant's OPRA request either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days results in a "deemed" denial of the Complainant's OPRA request pursuant to N.J.S.A. 47:1A-5.g., N.J.S.A. 47:1A-5.i., and Kelley v. Township of Rockaway, GRC Complaint No. 2007-11 (Interim Order October 31, 2007).
2. Because the Complainant's request is overly broad, fails to identify specific government records sought and would require the Custodian to conduct research in order to determine the records which may be responsive to the request, the Complainant's request is invalid under OPRA. MAG Entertainment, LLC v. Division of Alcoholic Beverage Control, 375 N.J. Super. 534 (App. Div. 2005), Bent v. Stafford Police Department, 381 N.J. Super. 30 (App. Div. 2005), New Jersey Builders Association v. New Jersey Council of Affordable Housing, 390 N.J. Super. 166 (App. Div. 2007) and Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009).
3. The Custodian violated N.J.S.A. 47:1A-5.g. and N.J.S.A. 47:1A-5.i. by not responding to the Complainant's OPRA request within the statutorily mandated seven (7) business days. However, the Complainant's request is invalid under OPRA because it is overly broad, fails to identify specific government records sought and would require the Custodian to conduct research. Additionally, the evidence of record does not indicate that the Custodian's violation of OPRA had a positive element of conscious

wrongdoing or was intentional and deliberate. Therefore, it is concluded that the Custodian's actions do not rise to the level of a knowing and willful violation of OPRA and unreasonable denial of access under the totality of the circumstances.

Prepared By: Harlynn A. Lack, Esq.  
Case Manager

Approved By: Catherine Starghill, Esq.  
Executive Director

February 21, 2012<sup>14</sup>

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<sup>14</sup> This complaint was prepared for adjudication on March 18, 2009; however, said complaint was not adjudicated due to the Council's lack of quorum.  
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