



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

CHRIS CHRISTIE  
*Governor*

KIM GUADAGNO  
*Lt. Governor*

LORI GRIFA  
*Acting Commissioner*

**FINAL DECISION**

**April 8, 2010 Government Records Council Meeting**

Michael Ping  
Complainant

Complaint No. 2009-132

v.

Borough of Brielle (Monmouth)  
Custodian of Record

At the April 8, 2010 public meeting, the Government Records Council (“Council”) considered the April 1, 2010 Findings and Recommendations of the Executive Director and all related documentation submitted by the parties. The Council voted unanimously to adopt the entirety of said findings and recommendations. The Council, therefore, finds that:

1. Under the state of the law at the time of the Complainant’s requests, the Complainant’s records requests dated July 17, 2007 and August 22, 2007 are not valid OPRA requests because the Complainant failed to submit said requests on the Borough’s official OPRA request form, and as such, there is no unlawful denial of access under OPRA pursuant to N.J.S.A. 47:1A-5.g., MAG Entertainment LLC v. Div. of ABC, 375 N.J. Super. 534 (App. Div. 2005), Bent v. Twp. of Stafford Police Dept., 381 N.J. Super. 30 (App. Div. 2005), and Gannett New Jersey Partners L.P. v. County of Middlesex, 379 N.J. Super. 205 (App. Div. 2005).<sup>1</sup>
2. Because the Custodian, original Zoning Officer and current Zoning Officer all certified that they did not receive any OPRA requests from the Complainant dated July 8, 2008 and April 6, 2009, and because the Complainant has not provided any evidence to contradict said certifications, the Custodian did not unlawfully deny access to the Complainant’s requests dated July 8, 2008 and April 6, 2009.

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

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<sup>1</sup> It is also noted that said requests are not valid OPRA requests because they do not seek identifiable government records, but are rather requests for information.



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 8<sup>th</sup> Day of April, 2010

Robin Berg Tabakin, Chair  
Government Records Council

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

Harlynn A. Lack, Secretary  
Government Records Council

**Decision Distribution Date: April 13, 2010**

**STATE OF NEW JERSEY  
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director  
April 8, 2010 Council Meeting**

**Michael Ping<sup>1</sup>  
Complainant**

**GRC Complaint No. 2009-132**

v.

**Borough of Brielle (Monmouth)<sup>2</sup>  
Custodian of Records**

**Records Relevant to Complaint:**

- July 17, 2007 Request:
  1. “The continuing operation of Dance for Joy as a non-conforming use...
  2. The hours of operation of Dance for Joy which remain wholly unregulated...
  3. The fact that the rear parking lot remains deficient in several areas as determined by the Brielle Land Use and development guide...
  4. The final outcome of the letter and “stop work order” issued by Albert Ratz, September 15, 2005, notifying Dance for Joy that they were in violation of section 23-1.5 of the Code of Brielle and demanding a site plan application be submitted within two weeks time...”
- August 22, 2007 Request:
  1. Is there a time frame within which this sign will be added to the rear door?
  2. Will there be an actual alarm push-bar type of assembly installed on this door, or is this signed intended as an empty threat?
  3. Might the neighbors expect to see a sign permanently painted on the door of sufficient size and color to be read from a reasonable distance?
- July 8, 2008: Unknown.<sup>3</sup>
- April 6, 2009: Site plan for Dance for Joy at 1025 Hwy 70 in Brielle.

**Request Made:** July 17, 2007, August 22, 2007, July 8, 2008 and April 6, 2009.

**Response Made:** None.

**Custodian:** Thomas Nolan

**GRC Complaint Filed:** April 22, 2009<sup>4</sup>

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

<sup>2</sup> No legal representation listed on record.

<sup>3</sup> The Complainant did not submit a copy of said request with his Denial of Access Complaint. Additionally, the Custodian, original Zoning Officer and current Zoning Officer certified that they never received said request.

<sup>4</sup> The GRC received the Denial of Access Complaint on said date.

## **Background**

### **July 17, 2007**

Letter from Complainant to Planning Board. The Complainant requests the Planning Board's written resolution regarding the following unresolved issues:

- "The continuing operation of Dance for Joy as a non-conforming use...
- The hours of operation of Dance for Joy which remain wholly unregulated...
- The fact that the rear parking lot remains deficient in several areas as determined by the Brielle Land Use and development guide...
- The final outcome of the letter and "stop work order" issued by Albert Ratz, September 15, 2005, notifying Dance for Joy that they were in violation of section 23-1.5 of the Code of Brielle and demanding a site plan application be submitted within two weeks time..."

### **August 22, 2007**

Letter from Complainant to Planning Board. The Complainant states that the Planning Board's Resolution dated May 8, 2007 states that "a sign shall be added to the rear door indicating that it is to be used for emergency purposes only and that opening the door from the exterior will cause an alarm to sound." The Complainant seeks answers to the following questions:

- Is there a time frame within which this sign will be added to the rear door?
- Will there be an actual alarm push-bar type of assembly installed on this door, or is this sign intended as an empty threat?
- Might the neighbors expect to see a sign permanently painted on the door of sufficient size and color to be read from a reasonable distance?

### **April 6, 2009**

Letter from Complainant to Zoning Officer. The Complainant states that he has been trying to obtain a copy of the site plan for Dance for Joy at 1025 Hwy 70 in Brielle to no avail. The Complainant states that he has enclosed an Open Public Records Act ("OPRA") request for the site plan.

### **April 16, 2009**

Denial of Access Complaint filed with the Government Records Council ("GRC") with the following attachments:

- Letter from Complainant to Planning Board dated July 17, 2007
- Letter from Complainant to Planning Board dated August 22, 2007
- Letter from Complainant's to Zoning Officer dated April 6, 2009<sup>5</sup>

The Complainant states that he submitted requests on July 17, 2007, August 22, 2007, July 8, 2008 and April 6, 2009. The Complainant states that he has been trying to obtain a copy of a site plan for Dance for Joy to no avail.<sup>6</sup>

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<sup>5</sup> The Complainant attaches additional records which are not relevant to the adjudication of this Denial of Access Complaint.

**April 24, 2009**

Letter from Custodian to GRC. The Custodian states that he is in receipt of the Complainant's Denial of Access Complaint. The Custodian states that his assistant, Ms. Sherri Hopkins, pulled all of the Complainant's OPRA requests on file in the Clerk's Office and located two (2) from 2005 and one (1) in 2006, all of which were fulfilled. The Custodian states that the Complainant often writes letters to the Chief of Police and Construction Official taking exception to a Dance Studio across from his home and may have sought information in one of said letters, which is not an official OPRA request.

**May 4, 2009**

E-mail from GRC to Custodian. The GRC states that in the Complainant's Denial of Access Complaint, the Complainant asserts that he has not received a response to his requests dated July 17, 2007, August 22, 2007, July 8, 2008 or April 6, 2009. The GRC requests that the Custodian provide a legal certification, pursuant to N.J. Court Rules 1:4-4, indicating whether he received said requests.

**May 5, 2009**

Custodian's Certification. The Custodian certifies that he is the Municipal Clerk and the official Custodian of Records. The Custodian certifies that in cases where he does not have direct access to the records requested, he disseminates the request to the entity that maintains said records and asks for said records to be delivered to the Custodian.

The Custodian certifies that upon review of the Complainant's requests included in his Denial of Access Complaint, said requests are for the Planning Board and/or Zoning Officer. The Custodian states that his assistant, Sherri Hopkins, received an OPRA request from the Complainant in 2005 and 2006, each on an official OPRA request form and each were fulfilled within the statutorily mandated response time. The Custodian certifies that none of the requests at issue in this complaint were filed with the Custodian's office, nor was the Custodian aware that any OPRA requests had been filed with other Borough employees.

Additionally, the Custodian certifies that the original Zoning Officer, Mr. Albert Ratz, resigned his position and now works for Spring Lake through an inter-local agreement. However, the Custodian certifies that Mr. Ratz maintains a mailbox at Borough Hall and it is likely that any requests sent to his attention were placed in said mailbox. The Custodian also certifies that that he was advised that all zoning records were forwarded to the new Zoning Officer, Mr. Alan Hilla.

Further, the Custodian includes a statement from the new Zoning Officer, Mr. Alan Hilla, wherein Mr. Hilla indicates that he is in receipt of an OPRA request from the Complainant dated April 21, 2009.

**May 15, 2009**

E-mail from GRC to Zoning Officer. The GRC states that in the Complainant's Denial of Access Complaint, the Complainant asserts that he has not received a response

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<sup>6</sup> The Complainant also discusses facts and arguments that are not relevant to the adjudication of this Denial of Access Complaint.

to his requests dated July 17, 2007, August 22, 2007, July 8, 2008 or April 6, 2009. The GRC requests that the Zoning Officer provide a legal certification, pursuant to N.J. Court Rules 1:4-4, indicating whether he received said requests in his official capacity as a Borough of Brielle employee.

### **May 15, 2009**

Original Zoning Officer's Certification. The original Zoning Officer certifies that he has not been the Zoning Officer for the Borough of Brielle since January 2007. The original Zoning Officer certifies that any and all correspondence from the Complainant was sent to the current Zoning Officer, Mr. Alan Hilla.

### **June 4, 2009**

Letter from GRC to Custodian. The GRC states that in the Custodian's correspondence to the GRC dated May 5, 2009, the Custodian included a statement from the current Zoning Officer, Mr. Alan Hilla, indicating that he was in receipt of an OPRA request from the Complainant. The GRC requests that the current Zoning Officer provide a legal certification, pursuant to N.J. Court Rules 1:4-4, indicating whether he received the requests which are the subject of this Denial of Access Complaint, specifically: July 17, 2007, August 22, 2007, July 8, 2008 and April 6, 2009.

### **June 8, 2009<sup>7</sup>**

Current Zoning Officer's Certification. The Zoning Officer certifies that he did not receive any OPRA requests from the Complainant dated July 17, 2007, August 22, 2007, July 8, 2008 or April 6, 2009.

## **Analysis**

### **What constitutes a valid OPRA records request?**

Review of the OPRA statute and its legislative intent lead the Council to conclude that use of the request form is required for all requestors. The statute provides that the custodian "shall adopt a form for the use of any person who requests access to a government record held or controlled by the public agency." N.J.S.A. 47:1A-5.f. The statute specifically prescribes what must be on the form:

- (1) space for the name, address and phone number of the requestor and a brief description of the government record sought;
- (2) space for the custodian to indicate which record will be made available, when the record will be available, and the fees to be charged;
- (3) specific directions and procedures for requesting a record;
- (4) a statement as to whether prepayment of fees for a deposit is required;
- (5) the time period in which the public agency is required by OPRA to make the record available;
- (6) a statement of the requestor's right to challenge a decision by the public agency to deny access and the procedure for filing an appeal;

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<sup>7</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.  
Michael Ping v. Borough of Brielle (Monmouth), 2009-132 – Findings and Recommendations of the Executive Director

- (7) space for the custodian to list reasons if a request is denied in whole or in part;
- (8) space for the requestor to sign and date the form;
- (9) space for the custodian to sign and date the form if the request is fulfilled or denied. *Id.*

Although the statute does not expressly state that OPRA requests must be on the form adopted by the agency pursuant to N.J.S.A. 47:1A-5.f., principles of statutory construction show that the Legislature intended use of this form by all requestors to be mandatory. In interpreting a statute, it is axiomatic that “each part or section [of the statute] should be construed in connection with every other part or section so as to produce a harmonious whole.” Matturi v. Bd. of Trustees of JRS, 173 N.J. 368, 383 (2002), quoting In re Passaic Cty. Utilities Auth., 164 N.J. 270, 300 (2000). In addition, a construction which renders statutory language meaningless must be avoided. Bergen Comm. Bank v. Sisler, 157 N.J. 188, 204 (1999). *See also* G.S. v. Dept. of Human Serv., 157 N.J. 161, 172 (1999). (a statute should be interpreted so as to give effect to all of its provisions, without rendering any language inoperative, superfluous, void, or insignificant).

As noted, N.J.S.A. 47:1A-5.f. requires that custodians adopt a request form, and sets forth a detailed list of what the form must contain. The next subsection of the statute provides:

If 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*. (Emphasis added.)  
N.J.S.A. 47:1A-5.g.

The form to which N.J.S.A. 47:1A-5.g. refers is the form required by N.J.S.A. 47:1A-5.f. In providing, in 5.g., that the custodian “shall” sign and date the form, indicate the basis for denial on the form, and return the form to the requestor, the Legislature evidenced its clear intent that it is mandatory for the form to be used by requestors. *See* Harvey v. Essex Cty. Bd. Of Freeholders, 30 N.J. 381, 391-92 (1959) (the word “shall” in a statute is generally mandatory). The express requirement that the custodian use the request form in denying an OPRA request, construed together with the preceding statutory requirement that the custodian adopt a request form, demonstrates that the Legislature intended that this form would be used for all OPRA requests. If all requestors are not required to submit requests on the form prescribed by the statute, then the statutory provisions requiring the custodian to sign and date the form, and return it to the requestor, would be meaningless. Indeed, a custodian would be unable to fulfill these express requirements of N.J.S.A. 47:1A-5.g. if the requestor does not use the form in submitting his request.

Accordingly, nothing in OPRA suggests that some requestors may forgo using the official request form. In enacting the form requirement, the Legislature has expressed its policy that use of the form promotes clarity and efficiency in responding to OPRA

requests, consistent with OPRA's central purpose of making government records "readily accessible" to requestors. N.J.S.A. 47:1A-1.

The Appellate Division has indicated that the statute's form requirement serves the additional purpose of prompting the legislative policy that a requestor must specifically describe identifiable records sought. See MAG Entertainment LLC v. Div. of ABC, 375 N.J. Super. 534, 546 (App. Div. 2005) (an open-ended request that fails to identify records with particularity is invalid). In Bent v. Twp. of Stafford Police Dept., 381 N.J. Super. 30, 33 (App. Div. 2005), the Court held that the requestor's general request for information violated this policy and was therefore invalid. In reaching this conclusion, the Court noted that OPRA mandates that the request form provide space for a "brief description" of the record request. *Id.* Similarly, in Gannett New Jersey Partners L.P. v. County of Middlesex, 379 N.J. Super. 205, 213 (App. Div. 2005), the Court specifically pointed to the same statutory request form requirement in determining that OPRA does not authorize requestors to make blanket requests for agency records.

Therefore, based on the language of the statute, as well as judicial recognition of the importance of the statutory request form, it is determined that the statute requires all requestors to submit OPRA requests on an agency's official OPRA records request form. OPRA's provisions come into play only where a request for records is submitted on an agency's official OPRA records request form.

It should be noted that the Council takes cognizance of the Appellate Division's recent decision in Renna v. County of Union, 407 N.J. Super. 230 (App. Div. 2009). In Renna, the Appellate Division held that:

"...all requests for OPRA records must be in writing; that such requests shall utilize the forms provided by the custodian of records; however, no custodian shall withhold such records if the written request for such records, not presented on the official form, contains the requisite information prescribed in N.J.S.A. 47:1A-5.f. Where the requestor fails to produce an equivalent writing that raises issues as to the nature or substance of the requested records, the custodian may require that the requestor complete the form generated by the custodian pursuant to N.J.S.A. 47:1A-5.g."

Renna was decided on May 21, 2009, one (1) month after the complaint was filed in the instant matter. Therefore, for the Renna decision to be considered in this matter it will have to be retroactively applied.

The New Jersey Supreme Court "has adopted the United States Supreme Court's definition that a "case announces a new rule when it breaks new ground or imposes a new obligation on the States or the Federal Government . . . [or] if the result was not dictated by precedent existing at the time the defendant's conviction became final." State v. Lark, 117 N.J. 331, 339 (1989) (quoting Teague v. Lane, 489 U.S. 288, 301, 109 S. Ct. 1060, 1070, 103 L. Ed.2d 334, 349 reh'g denied, 490 U.S. 1031, 109 S. Ct. 1771, 104 L. Ed.2d 266 (1989)). See also State v. Johnson, 166 N.J. 523, 546-47 (2001); State v.



Knight, 145 N.J. 233, 250-51 (1996).” State v. Yanovsky, 340 N.J.Super. 1 (App. Div. 2001).

Although retroactive application of laws is generally disfavored, Gibbons v. Gibbons, 86 N.J. 515, 521 (1981), a clear intention by the Legislature that retroactive application is intended will be given effect. Phillips v. Curiale, 128 N.J. 608, 618 (1992). Courts recognize that retroactive laws enacted pursuant to the police power may impair the rights of individuals, Rothman v. Rothman, 65 N.J. 219, 225-226 (1974), but where the public interest sufficiently outweighs the impaired private right, retroactive application is permissible. State Troopers Fraternal Assoc. v. New Jersey, 149 N.J. 38, 57 (1997).

In determining retroactive application of a new rule, four judicial options are available:

(1) make the new rule of law purely prospective, applying it only to cases whose operative facts arise after the new rule is announced; (2) apply the new rule to future cases and to the parties in the case announcing the new rule, while applying the old rule to all other pending and past litigation; (3) grant the new rule limited retroactivity, applying it to cases in (1) and (2) as well as to pending cases where the parties have not yet exhausted all avenues of direct review [pipeline retroactivity]; and, finally, (4) give the new rule complete retroactive effect, applying it to all cases, even those where final judgments have been entered and all avenues of direct review exhausted. State v. Nash, 64 N.J. 464, 468-70 (1974). State v. Knight, 145 N.J. 233, 249 (1996).

The determination of retroactive application is generally guided by three factors: "(1) the purpose of the rule and whether it would be furthered by a retroactive application, (2) the degree of reliance placed on the old rule by those who administered it, and (3) the effect a retroactive application would have on the administration of justice." *Id.* at 251 (citation and internal quotations omitted).

In Knight, the Court granted pipeline retroactivity to the rule previously announced in State v. Sanchez, 129 N.J. 261 (1992), that "post-indictment interrogation of defendant violated his right to counsel under Article 1, paragraph 10 of the New Jersey Constitution" requiring suppression of his confession, *Id.* at 279, because the purpose of that exclusionary rule was also to enhance the reliability of confessions. Knight supra, 145 N.J. at 256-58.

Although the Knight Court was addressing the retroactive application of a new rule in a criminal setting, the New Jersey Supreme Court has applied similar reasoning in the civil setting. In Olds v. Donnelly, 150 N.J. 424, 442 (1997), the Court abrogated its decision in Circle Chevrolet Co. v. Giordano, Halleran & Ciesla, 142 N.J. 280 (1995) and exempted attorney malpractice actions from the entire controversy doctrine. In addressing whether the decision should be applied retroactively or prospectively, the Court recognized that "[o]rdinarily, judicial decisions apply retroactively. Crespo v. Stapf, 128 N.J. 351, 367 (1992)... [but] [p]olicy considerations may justify giving a decision limited

retroactive effect.” *Ibid.* The Court then examined the considerations articulated in Knight and concluded that the Olds decision should be given limited “pipeline” retroactivity because such application “adequately protect existing relationships[,]” and because the application of pipeline retroactivity to pending cases “serves the interests of justice by permitting resolution of their claims on the merits.” *Id.* at 450. Perhaps most importantly, the Court recognized that complete retroactive application potentially exposes the judicial system to the undue burden of revisiting numerous matters already concluded. *Id.* See, e.g., Constantino v. Borough of Berlin, 348 N.J. Super. 327 (App. Div. 2002)(holding that the public interest in retroactive application of the Age Discrimination in Employment Act, 29 U.S.C.A. §621 et seq., which specifically prohibited municipalities from hiring persons as police officer under age 21 or over age 35, outweighs an individual's private rights); State v. Yanovsky, 340 N.J. Super. 1 (App. Div. 2001)(holding that State v. Carty, 332 N.J. Super. 200 (App. Div. 2000) established a new rule of law during the pendency of the case, but that the public interest and administration of justice favored limited application of retroactivity); Zuccarelli v. NJDEP, 376 N.J. Super. 372 (App. Div. 1999)(holding that cases which held New Jersey's waste flow control system was unconstitutional and discriminatory should be applied retroactively only to cases in the “pipeline”).

Here, the GRC examined the degree of reliance upon prevailing Council decisions with respect to the use of request forms and found that the conclusion that ***OPRA’s provisions come into play only where a request for records is submitted on an agency’s official OPRA records request form*** was repeatedly cited by the GRC in prior adjudications. And because records custodians relied upon said decisions, the retroactive application of the new rule articulated in Renna, *supra*, would likely foster confusion among many records custodians who already responded to OPRA requests predating the Renna court’s decision. Accordingly, the GRC will not apply the Renna court’s rule retroactively, but rather only apply it, when applicable, to complaints whose operative facts arise after the rule was articulated.

Therefore, under the state of the law at the time of the Complainant’s requests, the Complainant’s records requests dated July 17, 2007 and August 22, 2007 are not valid OPRA requests because the Complainant failed to submit said requests on the Borough’s official OPRA request form, and as such, there is no unlawful denial of access under OPRA pursuant to N.J.S.A. 47:1A-5.g., MAG, *supra*, Bent, *supra*, and Gannett, *supra*.<sup>8</sup>

**Whether the Custodian unlawfully denied access to the Complainant’s requests dated July 8, 2008 and April 6, 2009?**

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:

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<sup>8</sup> It is also noted that said requests are not valid OPRA requests because they do not seek identifiable government records, but are rather requests for information.  
Michael Ping v. Borough of Brielle (Monmouth), 2009-132 – Findings and Recommendations of the Executive Director

“... 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 states that:

"[a] request for access to a government record shall be *in writing* and hand-delivered, mailed, transmitted electronically, or otherwise conveyed to the appropriate custodian..."(Emphasis added). N.J.S.A. 47:1A-5.g.

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 states that he submitted OPRA requests on July 8, 2008 and April 6, 2009 and did not receive any response to said requests. The Custodian, original Zoning Officer and current Zoning Officer all certified that they did not receive any OPRA requests from the Complainant dated July 8, 2008 and April 6, 2009. Further, the Complainant has not provided any evidence to contradict said certifications.

Therefore, because the Custodian, original Zoning Officer and current Zoning Officer all certified that they did not receive any OPRA requests from the Complainant dated July 8, 2008 and April 6, 2009, and because the Complainant has not provided any evidence to contradict said certifications, the Custodian did not unlawfully deny access to the Complainant’s requests dated July 8, 2008 and April 6, 2009.

### **Conclusions and Recommendations**

The Executive Director respectfully recommends the Council find that:

1. Under the state of the law at the time of the Complainant’s requests, the Complainant’s records requests dated July 17, 2007 and August 22, 2007 are not valid OPRA requests because the Complainant failed to submit said requests on the Borough’s official OPRA request form, and as such, there is no unlawful denial of access under OPRA pursuant to N.J.S.A. 47:1A-5.g., MAG Entertainment LLC v. Div. of ABC, 375 N.J. Super. 534 (App. Div.

2005), Bent v. Twp. of Stafford Police Dept., 381 N.J. Super. 30 (App. Div. 2005), and Gannett New Jersey Partners L.P. v. County of Middlesex, 379 N.J. Super. 205 (App. Div. 2005).<sup>9</sup>

2. Because the Custodian, original Zoning Officer and current Zoning Officer all certified that they did not receive any OPRA requests from the Complainant dated July 8, 2008 and April 6, 2009, and because the Complainant has not provided any evidence to contradict said certifications, the Custodian did not unlawfully deny access to the Complainant's requests dated July 8, 2008 and April 6, 2009.

Prepared By: Dara Lownie  
Senior Case Manager

Approved By: Catherine Starghill, Esq.  
Executive Director

April 1, 2010

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<sup>9</sup> It is also noted that said requests are not valid OPRA requests because they do not seek identifiable government records, but are rather requests for information.  
Michael Ping v. Borough of Brielle (Monmouth), 2009-132 – Findings and Recommendations of the Executive Director