



**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**

**May 27, 2010 Government Records Council Meeting**

Christopher A. Gray, Esq.  
Complainant

Complaint No. 2009-328

v.

City of Camden (Camden)  
Custodian of Record

At the May 27, 2010 public meeting, the Government Records Council (“Council”) considered the May 20, 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. 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 (October 2007).
2. Because N.J.S.A. 47:1A-5.e. provides that “[i]mmediate access ordinarily shall be granted to...contracts...”, the Custodian unlawfully denied the Complainant access to the contracts that he determined were, in part, responsive to the Complainant’s request for Item No. 2 of the records relevant to the complaint by failing to make those records immediately available upon receipt of the Complainant’s OPRA request.
3. Apart from the Custodian’s “deemed” denial, the Custodian certified that the records that comprise Item No. 1 of the records request, which are resolutions and ordinances acknowledging payments to Caryl Amana, Esq., and the records that comprise Item No. 2 of the records request, which are invoices and contracts for legal services provided by Ms. Amana from January of 2006 through the date of the request, were disclosed to the Complainant on January 13, 2010, and because there is no credible evidence in the record to refute said certification, there was no unlawful denial of access pursuant to N.J.S.A.



47:1A-5.g. and Burns v. Borough of Collingswood, GRC Complaint No. 2005-68 (September 2005).

4. Because the Custodian certified that there are no records responsive to the Complainant's request for Item No. 3, which is any retainer agreement between the City of Camden and Caryl Amana, Esq., and Item No. 4, which is any indemnification agreement between the City of Camden and Caryl Amana, Esq., and because there is no credible evidence in the record to refute the Custodian's certification, the Custodian did not unlawfully deny the Complainant access to said records pursuant to N.J.S.A. 47:1A-1.1. *See also* Pusterhofer v. NJ Department of Education, GRC Complaint No. 2005-49 (July 2005).
  
5. Although the Custodian violated N.J.S.A. 47:1A-5.e. by failing to make the contracts immediately available upon receipt of the Complainant's OPRA request, and although the Custodian violated N.J.S.A. 47:1A-5.g. and N.J.S.A. 47:1A-5.i., by failing to respond to the Complainant's OPRA request in writing within the statutorily mandated seven (7) business days which resulted in a "deemed" denial of the Complainant's OPRA request, the Custodian did respond in writing to the Complainant's request within nine (9) business days informing the Complainant that the request was referred to the Law Department, and thereafter the Custodian followed advice of counsel in redacting and disclosing all records responsive to the Complainant's request. 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 27<sup>th</sup> Day of May, 2010

Robin Berg Tabakin, Chairman  
Government Records Council

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

Charles A. Richman, Secretary  
Government Records Council

**Decision Distribution Date: June 3, 2010**

**STATE OF NEW JERSEY  
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director  
May 27, 2010 Council Meeting**

**Christopher A. Gray, Esq.<sup>1</sup>  
Complainant**

**GRC Complaint No. 2009-328**

v.

**City of Camden (Camden)<sup>2</sup>  
Custodian of Records**

**Records Relevant to Complaint:<sup>3</sup>**

1. All bills and ordinances acknowledging payments to Caryl Amana, Esq.
2. All invoices for all work done by Caryl Amana, Esq. from January 1, 2006 through November 2, 2009.
3. Any retainer agreement between the City of Camden and Caryl Amana, Esq.
4. Any indemnification agreement between the City of Camden and Caryl Amana, Esq.

**Request Made:** November 2, 2009

**Response Made:** November 13, 2009

**Custodian:** Luis Pastoriza, City Clerk

**GRC Complaint Filed:** December 28, 2009<sup>4</sup>

**Background**

**November 2, 2009**

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.

**November 13, 2009**

Custodian's response to the OPRA request. The Custodian responds in writing to the Complainant's OPRA request on the ninth (9<sup>th</sup>) business day following receipt of such request. The Custodian states that after he receives a response from the Law Department he will contact the Complainant.

**December 28, 2009**

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

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

<sup>2</sup> Represented by Howard McCoach, Esq., (Camden, NJ).

<sup>3</sup> There were other records requested that are not relevant to this complaint.

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

- Complainant's OPRA request dated November 2, 2009
- Custodian's response to the OPRA request dated November 13, 2009

The Complainant states he provided to the Custodian an OPRA request for the records relevant to the complaint on November 2, 2009 and that said request was denied by the Custodian on November 13, 2009.

The Complainant does not agree to mediate this complaint.

**December 28, 2009**

Request for the Statement of Information ("SOI") sent to the Custodian.

**January 6, 2010**

Letter from GRC to the Custodian. The GRC sends a letter to the Custodian indicating that the GRC provided the Custodian with a request for a Statement of Information on December 28, 2009 and to date has not received a response. Further, the GRC states that if the Statement of Information is not submitted within three (3) business days, the GRC will adjudicate this complaint based solely on the information provided by the Complainant.

**January 11, 2010**

Telephone call from the Custodian to the GRC. The Custodian calls the GRC in response to the GRC's letter to the Custodian dated January 6, 2010. The Custodian states that he never received a request for the SOI from the GRC. The Custodian requests the GRC send him another request for the SOI. The Custodian also asks the GRC to grant him an extension of time to prepare and return the SOI because he states he is presently trying to amicably resolve this complaint with the Complainant and needs some extra time to do so.

**January 11, 2010**

Second request for the SOI sent to the Custodian. The GRC grants the Custodian a five (5) business day extension of time, for a total of ten (10) business days, to resolve the complaint with the Complainant or complete and return the SOI to the GRC.

**January 11, 2010**

Letter from the Custodian to the GRC. The Custodian confirms his earlier telephone conversation with the GRC. The Custodian also states that he determined resolutions and ordinances are the records that are responsive to the Complainant's request for Item No. 1 of the records relevant to the complaint and invoices and contracts are the records that are responsive to the Complainant's request for Item No. 2. The Custodian states that no records exist which are responsive to the Complainant's request for Items No. 3 and No. 4 of the records relevant to the complaint. The Custodian further states that he is disclosing copies of the records responsive to the Complainant's request for Items No. 1 and No. 2 and that he requests the Complainant remit \$50.25 to Camden City for the copying costs. The Custodian requests the Complainant withdraw the complaint because all existing records responsive to the request are being disclosed.

**January 12, 2010**

E-mail from the Custodian to the Complainant and the GRC. Yenise Valdez in the Office of the Camden City Clerk states that the documents related to the request are being provided to the GRC under separate cover.

**January 12, 2010**

E-mail from the GRC to the Custodian. The GRC informs the Custodian that he must deliver the records responsive to the request to the Complainant and not to the GRC.

**March 5, 2010**

E-mail from the GRC to the Custodian. The GRC informs the Custodian that neither the complaint was withdrawn nor the completed SOI was returned to the GRC. The GRC informs the Custodian that the completed SOI must be returned to the GRC within three (3) business days.

**March 8, 2010**

Custodian's SOI with the following attachments:

- Complainant's OPRA request dated November 2, 2009
- Custodian's response to the OPRA request dated November 13, 2009
- Complainant's Denial of Access Complaint dated December 28, 2009
- Letter from the Custodian to the GRC dated January 11, 2010<sup>5</sup>

The Custodian certifies that he contacted the Law Department and the Police Department to facilitate his search for the requested records. The Custodian further certifies that no records that may have been responsive to the request were destroyed in accordance with the Records Destruction Schedule established and approved by New Jersey Department of State, Division of Archives and Records Management.

The Custodian certifies that he received the Complainant's OPRA request on November 2, 2009 and responded to said request on November 13, 2009. The Custodian certifies that he determined resolutions and ordinances are the records that were responsive to the Complainant's request for Item No. 1 of the records relevant to the complaint and invoices and contracts are the records that were responsive to the Complainant's request for Item No. 2. The Custodian further certifies that he gathered the records responsive to the Complainant's request from various city sources and then, because the records contained information subject to the attorney-client privilege, forwarded said records to the Custodian's Counsel so that Counsel could review and redact the requested records pursuant to N.J.S.A. 47:1A-1.1. The Custodian certifies that the procedure he followed caused an unavoidable delay in responding to the Complainant's OPRA request.

The Custodian certifies that, although the Complainant did not remit the \$50.25 copying charge fee, the Custodian disclosed to the Complainant the records relevant to

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<sup>5</sup> The Custodian also included copies of several e-mails that are not relevant to the GRC's adjudication of this complaint but do indicate that the Custodian attempted to obtain a response to the Complainant's OPRA request from Lewis Wilson and John Thomson. However, the Custodian did not identify the duties of Messer's. Wilson and Thomson or describe their involvement with this complaint.

the complaint for Item No 1 and Item No. 2 on January 13, 2010. The Custodian certifies that some of the invoices were redacted pursuant to the direction of the Custodian's Counsel.<sup>6</sup> The Custodian also certifies that no records responsive to the Complainant's request for Item No. 3 and Item No. 4 of the records relevant to the complaint exist. The Custodian further certifies that, except for the nonexistent records, all of the records responsive to the Complainant's request have been disclosed to the Complainant.

### **March 9, 2010**

E-mail from the Custodian to the Complainant. The Custodian states that the records requested by the Complainant were disclosed in January of 2010 and asks the Complainant if he intends to withdraw the complaint.<sup>7</sup>

### **Analysis**

#### **Whether the Custodian unlawfully denied access to the requested records?**

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 also provides that:

"[i]mmediate access ordinarily shall be granted to budgets, bills, vouchers, contracts, including collective negotiations agreements and individual employment contracts, and public employee salary and overtime information." (Emphasis added.) N.J.S.A. 47:1A-5.e.

OPRA further 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. If the custodian of a government record asserts that part of a particular record is exempt from

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<sup>6</sup> The Complainant did not raise any issue(s) regarding denial of access due to any of the redactions.

<sup>7</sup> Other correspondence was received from the parties which is not relevant to this complaint or restates the facts/assertions already presented to the GRC.

public access pursuant to [OPRA], the custodian shall delete or excise from a copy of the record that portion which the custodian asserts is exempt from access and shall promptly permit access to the remainder of the record.” N.J.S.A. 47:1A- 5.g.

Additionally, OPRA 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...*(Emphasis added.) N.J.S.A. 47:1A-5.i.

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.

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>8</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 (October 2007).

There is no dispute between the parties that the Complainant’s OPRA request was received by the Custodian on November 2, 2009 and that the Custodian responded to the request on November 13, 2009, informing the Complainant that when the Custodian receives a response from the Law Department he will contact the Complainant.

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<sup>8</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.



As such, the Custodian's failure to respond to the Complainant's OPRA request dated November 2, 2009 in writing 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.

Further, the Complainant sought, *inter alia*, bills and contracts. Although the Custodian certified that he determined that resolutions rather than bills were the records responsive to the Complainant's request for Item No. 1, the Custodian determined that invoices *and* contracts were the records responsive to the Complainant's request for Item No. 2. And pursuant to N.J.S.A. 47:1A-5.e., "[i]mmediate access ordinarily shall be granted to...contracts..." Accordingly, the Custodian should have immediately disclosed the contracts responsive to the Complainant's request as required under OPRA.<sup>9</sup>

Therefore, because N.J.S.A. 47:1A-5.e. provides that "[i]mmediate access ordinarily shall be granted to...contracts...", the Custodian unlawfully denied the Complainant access to the contracts that he determined were, in part, responsive to the Complainant's request for Item No. 2 of the records relevant to the complaint by not making those records immediately available upon receipt of the Complainant's OPRA request.

The Custodian certified that he determined that resolutions and ordinances acknowledging payments to Caryl Amana, Esq., were the records responsive to the Complainant's request for Item No. 1. The Custodian also certified that invoices and contracts for legal services provided by Ms. Amana from January of 2006 through the date of request were the records responsive to the Complainant's request for Item No. 2. The Custodian averred that he disclosed to the Complainant all of the records relevant to the complaint for Items No 1 and No. 2 on January 13, 2010. Although the Custodian certified that some of the invoices which constituted the records responsive to Item No. 1 were redacted to remove attorney-client privileged material pursuant to N.J.S.A. 47:1A-1.1., there is nothing in the evidence of record to indicate the Complainant objected to any of the redactions as an unreasonable denial of access. The Custodian certified further that, except for nonexistent records, all of the records responsive to the Complainant's request have been disclosed to the Complainant.

The Custodian's actions in the instant complaint are similar to those in Burns v. Borough of Collingswood, GRC Complaint No. 2005-68 (September 2005). In Burns, the Custodian certified that a record responsive to the Complainant's request was provided to the Complainant and no other records responsive to the Complainant's request existed. The GRC subsequently held that:

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<sup>9</sup> Although bills are also immediate access records pursuant to N.J.S.A. 47:1A-5.e., here the bills were attorney invoices for professional services rendered and the Custodian certified that the invoices had to be sent to the Custodian's Counsel for redaction of attorney-client privileged material. OPRA provides that "...attorney...bills or invoices may be redacted to remove any information protected by the attorney-client privilege..." N.J.S.A. 47:1A-1.1. For this reason, the requested invoices could not be made immediately available.

“[t]he Custodian certified that the Complainant was in receipt of all [records] responsive to the request. The Custodian has met the burden of proving that all records in existence responsive to the request were provided to the Complainant. Therefore, there was no unlawful denial of access.”

In the instant complaint, apart from the Custodian’s “deemed” denial, the Custodian certified that the records that comprise Item No. 1 of the records request, which are resolutions and ordinances acknowledging payments to Caryl Amana, Esq., and the records that comprise Item No. 2 of the records request, which are invoices and contracts for legal services provided by Ms. Amana from January of 2006 through the date of the request, were disclosed to the Complainant on January 13, 2010, and because there is no credible evidence in the record to refute said certification, there was no unlawful denial of access pursuant to N.J.S.A. 47:1A-5.g. and Burns, *supra*.

With respect to Items No. 3 and 4 of the request, the Complainant requested any retainer agreement between the City of Camden and Caryl Amana and any indemnification agreement between the same parties, respectively. The Custodian certified that there were no records responsive to the Complainant’s request for these items.

The Council has held that if a custodian has sufficiently borne his/her burden of proving that there is no record responsive to the Complainant’s request, the Custodian could not have unlawfully denied access. In Pusterhofer v. New Jersey Department of Education, GRC Complaint No. 2005-49 (July 2005), the Complainant sought a copy of a telephone bill from the custodian in an effort to obtain proof that a phone call was made to him by an official from the Department of Education. The custodian provided a certification in his submission to the GRC that averred that the requested record was nonexistent. The Council subsequently determined that “[t]he Custodian has certified that the requested record does not exist. Therefore, the requested record can not (sic) be released and there was no unlawful denial of access.”

Therefore, because the Custodian certified that there are no records responsive to the Complainant’s request for Item No. 3, which is any retainer agreement between the City of Camden and Caryl Amana, Esq., and Item No. 4, which is any indemnification agreement between the City of Camden and Caryl Amana, Esq., and because there is no credible evidence in the record to refute the Custodian’s certification, the Custodian did not unlawfully deny the Complainant access to said records pursuant to N.J.S.A. 47:1A-1.1. See also Pusterhofer, *supra*.

**Whether the Custodian’s delay in access to the requested records 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.

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).

Here, although the Custodian violated N.J.S.A. 47:1A-5.e. by failing to make the contracts immediately available upon receipt of the Complainant’s OPRA request, and although the Custodian violated N.J.S.A. 47:1A-5.g. and N.J.S.A. 47:1A-5.i., by failing to respond to the Complainant’s OPRA request in writing within the statutorily mandated seven (7) business days which resulted in a “deemed” denial of the Complainant’s OPRA request, the Custodian did respond in writing to the Complainant’s request within nine (9) business days informing the Complainant that the request was referred to the Law Department, and thereafter the Custodian followed advice of Counsel in redacting and disclosing all records responsive to the Complainant’s request. 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 (October 2007).

2. Because N.J.S.A. 47:1A-5.e. provides that “[i]mmediate access ordinarily shall be granted to...contracts...”, the Custodian unlawfully denied the Complainant access to the contracts that he determined were, in part, responsive to the Complainant’s request for Item No. 2 of the records relevant to the complaint by failing to make those records immediately available upon receipt of the Complainant’s OPRA request.
3. Apart from the Custodian’s “deemed” denial, the Custodian certified that the records that comprise Item No. 1 of the records request, which are resolutions and ordinances acknowledging payments to Caryl Amana, Esq., and the records that comprise Item No. 2 of the records request, which are invoices and contracts for legal services provided by Ms. Amana from January of 2006 through the date of the request, were disclosed to the Complainant on January 13, 2010, and because there is no credible evidence in the record to refute said certification, there was no unlawful denial of access pursuant to N.J.S.A. 47:1A-5.g. and Burns v. Borough of Collingswood, GRC Complaint No. 2005-68 (September 2005).
4. Because the Custodian certified that there are no records responsive to the Complainant’s request for Item No. 3, which is any retainer agreement between the City of Camden and Caryl Amana, Esq., and Item No. 4, which is any indemnification agreement between the City of Camden and Caryl Amana, Esq., and because there is no credible evidence in the record to refute the Custodian’s certification, the Custodian did not unlawfully deny the Complainant access to said records pursuant to N.J.S.A. 47:1A-1.1. *See also* Pusterhofer v. NJ Department of Education, GRC Complaint No. 2005-49 (July 2005).
5. Although the Custodian violated N.J.S.A. 47:1A-5.e. by failing to make the contracts immediately available upon receipt of the Complainant’s OPRA request, and although the Custodian violated N.J.S.A. 47:1A-5.g. and N.J.S.A. 47:1A-5.i., by failing to respond to the Complainant’s OPRA request in writing within the statutorily mandated seven (7) business days which resulted in a “deemed” denial of the Complainant’s OPRA request, the Custodian did respond in writing to the Complainant’s request within nine (9) business days informing the Complainant that the request was referred to the Law Department, and thereafter the Custodian followed advice of counsel in redacting and disclosing all records responsive to the Complainant’s request. 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: John E. Stewart  
Case Manager/*In Camera* Attorney

Approved By: Catherine Starghill, Esq.  
Executive Director

May 20, 2010