



NEW JERSEY GOVERNMENT RECORDS COUNCIL

Administrative Complaint Disposition – Duplicate Complaint Filed with the GRC

GRC Complaint No.: 2010-45

Complainant: Joan McGee

Custodian: Township of East Amwell (Hunterdon); Theresa Stahl, Clerk

Date of Request: October 23, 2007

Date of Complaint: March 4, 2010¹

Complaint Disposition: The Complainant submitted two Denial of Access Complaints to the GRC arising from the same OPRA request. Therefore, the issue underlying this complaint has been fully adjudicated at McGee v. Twp of East Amwell (Hunterdon), GRC Complaint No. 2007-305.²

Applicable OPRA Provision: None

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.

Effective Date of Disposition: July 26, 2011

¹ The GRC received the Denial of Access Complaint on said date.

² In the matter before the Council, the Complainant asserts that the Custodian's Counsel intentionally omitted an e-mail dated January 18, 2007 from the materials submitted to the GRC for its *in camera* review in McGee v. Twp of East Amwell (Hunterdon), GRC Complaint No. 2007-305. However, at the August 11, 2009 public meeting, the Council considered the August 4, 2009 Executive Director's Findings and Recommendations and all related documentation submitted by the parties, *including the e-mail which is the subject of the instant complaint*, conducted an *in camera* review of such e-mail, and determined that said e-mail was exempt from disclosure pursuant to the attorney-client privilege for pending litigation pursuant to N.J.S.A. 47:1A-1.1 and personnel matters pursuant to N.J.S.A. 47:1A-10 involving the Complainant. The GRC rendered its Final Decision in that case on September 30, 2009; the Complainant filed an appeal to the Superior Court of New Jersey, Appellate Division, on November 5, 2009. The e-mail which is the subject of the instant complaint was provided to the Superior Court of New Jersey, Appellate Division, on September 17, 2010. On November 16, 2010, the Appellate Division remanded the matter to the GRC to determine if the Complainant waived her right of confidentiality in her personnel records and did not retain jurisdiction. On March 29, 2011, the GRC issued its Final Decision finding that there was no evidence in the record to support a conclusion that the Complainant waived her right of confidentiality in her personnel records she sought pursuant to her October 23, 2007 OPRA request. Thus, the issue inherent in this matter has been fully litigated at McGee v. Twp of East Amwell (Hunterdon), GRC Complaint No. 2007-305.



Prepared By: Karyn Gordon, Esq.
In House Counsel

Approved By: Catherine Starghill, Esq.
Executive Director

Date: July 19, 2011

Distribution Date: July 27, 2011