



NEW JERSEY GOVERNMENT RECORDS COUNCIL

Administrative Complaint Disposition – Not a Valid OPRA Request

GRC Complaint No.: 2010-69

Complainant: John Belthoff

Custodian: Borough of River Edge (Bergen), Maria Pomerantz

Date of Request: March 19, 2010

Date of Complaint: March 24, 2010¹

Complaint Disposition: The Custodian certifies that she did not receive a written OPRA request from the Complainant, but instead received a Notice of and Request for Discovery dated February 10, 2010 which did not reference OPRA and did not contain the information prescribed in N.J.S.A. 47:1A-5.f.² Additionally, the Complainant has failed to provide any evidence to contradict the Custodian's certification.³ Therefore, this complaint is without any reasonable factual basis to pursue under OPRA.

Applicable OPRA Provision: "The custodian of a public agency shall adopt a form for the use of any person who requests access to a government record held or controlled by the public agency. The form shall provide space for the name, address, and phone number of the requestor and a brief description of the government record sought. The form shall include space for the custodian to indicate which record will be made available, when the record will be available, and the fees to be charged. The form shall also include the following:

1. specific directions and procedures for requesting a record;
2. a statement as to whether prepayment of fees or a deposit is required;
3. the time period within which the public agency is required by [OPRA] ... to make the record available;
4. 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;
5. space for the custodian to list reasons if a request is denied in whole or in part;
6. space for the requestor to sign and date the form;
7. space for the custodian to sign and date the form if the request is fulfilled or denied." N.J.S.A. 47:1A-5.f.

"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." N.J.S.A. 47:1A- 5.g.

¹ The GRC received the Denial of Access Complaint on March 25, 2010.

² See Renna v. County of Union, 407 N.J. Super. 230 (App.Div. 2009).

³ Evidence in the record provided by both the Complainant and the Custodian demonstrates that the Complainant verbally requested records pursuant to OPRA.



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: October 26, 2010

Prepared By: Darryl C. Rhone
Case Manager

Approved By: Catherine Starghill, Esq.
Executive Director

Date: October 19, 2010

Distribution Date: October 26, 2010