



NEW JERSEY GOVERNMENT RECORDS COUNCIL
Administrative Complaint Disposition – Unripe Cause of Action

GRC Complaint No.: 2011-341

Complainant: Robert Scheer

Public Agency: Franklin Township Fire District #1

Custodian of Record: Tim Szymborski

Date of Requests: October 27, 2011¹

Date of Complaint: November 7, 2011²

Complaint Disposition: The Complainant provided his OPRA requests for meeting minutes and resolutions to the Custodian on October 27, 2011. The Complainant verified his complaint on November 4, 2011, which is six (6) business days from the date the Custodian received the Complainant's OPRA requests. OPRA provides that the Custodian "...shall grant access to a government record or deny access to a government record as soon as possible, but not later than seven business days after receiving the request...." N.J.S.A. 47:1A-5.i. Here, because meeting minutes and resolutions are not immediate access records, the Complainant verified his complaint before the statutory time period provided for the Custodian to respond had expired; therefore the complaint is materially defective and must be dismissed.

Applicable OPRA Provisions:

"...[A] custodian of a government record shall grant access to a government record or deny access to a government record as soon as possible, but not later than seven business days after receiving the request...." N.J.S.A. 47:1A-5.i.

"A person who is denied access to a government record by the custodian of the record...may institute a proceeding to challenge the custodian's decision by filing...a complaint with the Government Records Council..." N.J.S.A. 47:1A-6.

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: December 20, 2011

¹ The Complainant's OPRA requests are dated October 26, 2011; however, the requests were submitted via e-mail dated October 26, 2011 at 5:35 p.m., so the Custodian would not have received the requests until the following business day, October 27, 2011. Further, October 27, 2011 is the date the Complainant asserted in his Denial of Access Complaint that he provided his OPRA requests to the Custodian.

² The GRC received the Denial of Access Complaint on said date.



Prepared By: John E. Stewart, Esq.

Approved By: Catherine Starghill, Esq.
Executive Director

Date: December 19, 2011

Distribution Date: December 21, 2011