



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

RICHARD E. CONSTABLE, III
Commissioner

FINAL DECISION

March 25, 2014 Government Records Council Meeting

Norman J. Lenchitz
Complainant

Complaint No. 2012-265

v.

Pittsgrove Township (Salem)
Custodian of Record

At the March 25, 2014 public meeting, the Government Records Council (“Council”) considered the March 18, 2014 Supplemental 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 this complaint be dismissed because the Complainant withdrew his complaint in a letter to the Honorable Damon Tyner, Administrative Law Judge, dated January 16, 2014. Therefore, no further adjudication is required.

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 25th Day of March, 2014

Robin Berg Tabakin, Esq., Chair
Government Records Council

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

Steven Ritardi, Esq., Secretary
Government Records Council

Decision Distribution Date: March 27, 2014



**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Supplemental Findings and Recommendations of the Executive Director
March 25, 2014 Council Meeting**

**Norman J. Lenchitz¹
Complainant**

GRC Complaint No. 2012-265

v.

**Pittsgrove Township (Salem)²
Custodial Agency**

Records Relevant to Complaint: Electronic copies of:

1. All professional service contracts with rate schedules issued from January 1, 2011 to August 8, 2012.
2. All invoices from January 1, 2011 to August 8, 2012 for the following professional service providers: Solicitor, Planning Board Solicitor, Engineer, Planning Board Engineer, Special Counsel (COAH), Grant Writer/Planner (COAH), Auditor, Accountant, and Risk Management Consultant.³

Custodian of Records: Steve Wymbs

Request Received by Custodian: August 20, 2012

Response Made by Custodian: August 20, 2012

GRC Complaint Received: September 18, 2012

Background⁴

September 24, 2013 Council Meeting

At its September 24, 2013 public meeting, the Government Records Council (“Council”) considered the September 17, 2013 Supplemental 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, found that:

1. The Custodian, Steve Wymbs, is in contempt of Council’s Order because he failed to comply with the terms of the Council’s August 27, 2013 Interim Order.

¹ No legal representation listed on record.

² Represented by George G. Rosenberger, Esq. (Woodstown, NJ).

³ There were other records requested that are not relevant to this complaint.

⁴ The parties may have submitted additional correspondence or made additional statements/assertions in the submissions identified herein. However, the Council includes in the Findings and Recommendations of the Executive Director the submissions necessary and relevant for the adjudication of this complaint.

2. The Custodian violated OPRA due to the following: (a) his written response was legally insufficient because he failed to respond to each item contained in the Complainant's OPRA request and failed to provide a date certain upon which he would respond to the Complainant providing any responsive records; (b) he failed to provide immediate access to the requested records which are contracts and invoices subject to immediate access; (c) he denied access to the requested records and failed to provide a legal reason for denying such access; and (d) he failed to comply with the terms of the Council's August 27, 2013 Interim Order, and as such is in contempt of Council's Order. Therefore, based on the evidence of record, it is possible that the Custodian's actions were intentional and deliberate, with knowledge of their wrongfulness, and not merely negligent, heedless or unintentional. As such, the complaint should be referred to the Office of Administrative Law for determination of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances.

Procedural History:

On September 25, 2013, the Council distributed its Interim Order to all parties. On November 4, 2013, the complaint was transmitted to the Office of Administrative Law ("OAL").

On January 16, 2014, the Complainant sent a letter to the Honorable Damon Tyner, Administrative Law Judge, withdrawing this complaint.

Analysis

No analysis required.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that this complaint be dismissed because the Complainant withdrew his complaint in a letter to the Honorable Damon Tyner, Administrative Law Judge, dated January 16, 2014. Therefore, no further adjudication is required.

Prepared By: John E. Stewart, Esq.

Approved By: Dawn R. SanFilippo, Esq.
Senior Counsel

March 18, 2014



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

RICHARD E. CONSTABLE, III
Commissioner

INTERIM ORDER

September 24, 2013 Government Records Council Meeting

Norman J. Lenchitz
Complainant

Complaint No. 2012-265

v.

Pittsgrove Township (Salem)
Custodian of Record

At the September 24, 2013 public meeting, the Government Records Council (“Council”) considered the September 17, 2013 Supplemental 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, Steve Wymbs, is in contempt of Council’s Order because he failed to comply with the terms of the Council’s August 27, 2013 Interim Order.
2. The Custodian violated OPRA due to the following: (a) his written response was legally insufficient because he failed to respond to each item contained in the Complainant’s OPRA request and failed to provide a date certain upon which he would respond to the Complainant providing any responsive records; (b) he failed to provide immediate access to the requested records which are contracts and invoices subject to immediate access; (c) he denied access to the requested records and failed to provide a legal reason for denying such access; and (d) he failed to comply with the terms of the Council’s August 27, 2013 Interim Order, and as such is in contempt of Council’s Order. Therefore, based on the evidence of record, it is possible that the Custodian’s actions were intentional and deliberate, with knowledge of their wrongfulness, and not merely negligent, heedless or unintentional. As such, the complaint should be referred to the Office of Administrative Law for determination of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances.



Interim Order Rendered by the
Government Records Council
On The 24th Day of September, 2013

Robin Berg Tabakin, Esq., Chair
Government Records Council

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

Steven Ritardi, Esq., Secretary
Government Records Council

Decision Distribution Date: September 25, 2013

**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Supplemental Findings and Recommendations of the Executive Director
September 24, 2013 Council Meeting**

**Norman J. Lenchitz¹
Complainant**

GRC Complaint No. 2012-265

v.

**Pittsgrove Township (Salem)²
Custodial Agency**

Records Relevant to Complaint: Electronic copies of:

1. All professional service contracts with rate schedules issued from January 1, 2011 to August 8, 2012.
2. All invoices from January 1, 2011 to August 8, 2012 for the following professional service providers: Solicitor, Planning Board Solicitor, Engineer, Planning Board Engineer, Special Counsel (COAH), Grant Writer/Planner (COAH), Auditor, Accountant, and Risk Management Consultant.³

Custodian of Records: Steve Wymbbs

Request Received by Custodian: August 20, 2012

Response Made by Custodian: August 20, 2012

GRC Complaint Received: September 18, 2012

Background⁴

At the August 27, 2013 public meeting, the Government Records Council (“Council”) considered the August 20, 2013 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, found that:

1. The Custodian’s written response was legally insufficient because the Custodian failed to respond to each item contained in the Complainant’s OPRA request and failed to provide a date certain upon which he would respond to the Complainant providing any responsive records. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i). *See also Paff v. Willingboro Board of Education (Burlington)*, GRC Complaint No. 2007-272

¹ No legal representation listed on record.

² Represented by George G. Rosenberger, Esq. (Woodstown, NJ).

³ There were other records requested that are not relevant to this complaint.

⁴ The parties may have submitted additional correspondence or made additional statements/assertions in the submissions identified herein. However, the Council includes in the Findings and Recommendations of the Executive Director the submissions necessary and relevant for the adjudication of this complaint.

(May 2008), and Hardwick v. NJ Department of Transportation, GRC Complaint No. 2007-164 (February 2008).

2. The Custodian has violated OPRA because, after asserting no legal reason for denying access to any of the requested records, he failed to provide immediate access to request items numbered 1 and 2, which are contracts and invoices, respectively. N.J.S.A. 47:1A-5(e).
3. The Custodian failed to bear his burden of proving that the denial of access to request items numbered 1 and 2 was authorized by law. N.J.S.A. 47:1A-6. Therefore, the Custodian must immediately disclose said records.
4. **The Custodian shall comply with paragraph 3 above immediately upon receipt of the Council's Interim Order with appropriate redactions, including a detailed document index explaining the lawful basis for each redaction, and within five (5) business days from receipt of the Council's Interim Order, provide certified confirmation of compliance, in accordance with N.J. Court Rule 1:4-4,⁵ to the Executive Director.⁶**
5. The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances pending the Custodian's compliance with the Council's Interim Order.

Procedural History:

On August 28, 2013, the Council distributed its Interim Order to the parties.

Analysis

Compliance

On August 27, 2013, the Council ordered the above-referenced compliance. On August 28, 2013, the Council distributed its Interim Order to the parties. The Council's Order provided that the Custodian shall immediately disclose the requested records, which are immediate access records. N.J.S.A. 47:1A-5(e). The Order further directed the Custodian to include a detailed document index explaining the lawful basis for any redactions and to provide certified confirmation of compliance to the Executive Director within five (5) business days from receipt of said Order. Although September 5, 2013, was the deadline date for compliance with the Council's Order, the Custodian failed to comply with the terms of the Council's August 27, 2013 Interim Order.

⁵ "I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment."

⁶ Satisfactory compliance requires that the Custodian deliver the record(s) to the Complainant in the requested medium. If a copying or special service charge was incurred by the Complainant, the Custodian must certify that the record has been *made available* to the Complainant but the Custodian may withhold delivery of the record until the financial obligation is satisfied. Any such charge must adhere to the provisions of N.J.S.A. 47:1A-5.

Accordingly, the Custodian, Steve Wymbs, is in contempt of Council's Order because he failed to comply with the terms of the Council's August 27, 2013 Interim Order.

Knowing & Willful

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 “... [i]f 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 (Id.; Marley v. Borough of Palmyra, 193 N.J. Super. 271, 294-95 (Law Div. 1993)); and 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, the Custodian violated OPRA due to the following: (a) his written response was legally insufficient because he failed to respond to each item contained in the Complainant's OPRA request and failed to provide a date certain upon which he would respond to the Complainant providing any responsive records; (b) he failed to provide immediate access to the requested records which are contracts and invoices subject to immediate access; (c) he denied access to the requested records and failed to provide a legal reason for denying such access; and (d) he failed to comply with the terms of the Council's August 27, 2013 Interim Order, and as such is in contempt of Council's Order. Therefore, based on the evidence of record, it is possible that the Custodian's actions were intentional and deliberate, with knowledge of their wrongfulness, and not merely negligent, heedless or unintentional. As such, the complaint should be referred to the Office of Administrative Law for determination of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that:

1. The Custodian, Steve Wymbs, is in contempt of Council's Order because he failed to comply with the terms of the Council's August 27, 2013 Interim Order.
2. The Custodian violated OPRA due to the following: (a) his written response was legally insufficient because he failed to respond to each item contained in the Complainant's OPRA request and failed to provide a date certain upon which he would respond to the Complainant providing any responsive records; (b) he failed to provide immediate access to the requested records which are contracts and invoices subject to immediate access; (c) he denied access to the requested records and failed to provide a legal reason for denying such access; and (d) he failed to comply with the terms of the Council's August 27, 2013 Interim Order, and as such is in contempt of Council's Order. Therefore, based on the evidence of record, it is possible that the Custodian's actions were intentional and deliberate, with knowledge of their wrongfulness, and not merely negligent, heedless or unintentional. As such, the complaint should be referred to the Office of Administrative Law for determination of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances.

Prepared By: John E. Stewart, Esq.

Approved By: Brandon D. Minde, Esq.
Executive Director

September 17, 2013



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

RICHARD E. CONSTABLE, III
Commissioner

INTERIM ORDER

August 27, 2013 Government Records Council Meeting

Norman J. Lenchitz
Complainant

Complaint No. 2012-265

v.

Pittsgrove Township (Salem)
Custodian of Record

At the August 27, 2013 public meeting, the Government Records Council ("Council") considered the August 20, 2013 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 written response was legally insufficient because the Custodian failed to respond to each item contained in the Complainant's OPRA request and failed to provide a date certain upon which he would respond to the Complainant providing any responsive records. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i). *See also Paff v. Willingboro Board of Education (Burlington)*, GRC Complaint No. 2007-272 (May 2008), and *Hardwick v. NJ Department of Transportation*, GRC Complaint No. 2007-164 (February 2008).
2. The Custodian has violated OPRA because, after asserting no legal reason for denying access to any of the requested records, he failed to provide immediate access to request items numbered 1 and 2, which are contracts and invoices, respectively. N.J.S.A. 47:1A-5(e).
3. The Custodian failed to bear his burden of proving that the denial of access to request items numbered 1 and 2 was authorized by law. N.J.S.A. 47:1A-6. Therefore, the Custodian must immediately disclose said records.
4. **The Custodian shall comply with paragraph 3 above immediately upon receipt of the Council's Interim Order with appropriate redactions, including a detailed document index explaining the lawful basis for each redaction, and within five (5) business days from receipt of the Council's Interim Order, provide certified confirmation of compliance, in accordance with N.J. Court Rule 1:4-4,¹ to the Executive Director.²**

¹ "I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment."

² Satisfactory compliance requires that the Custodian deliver the record(s) to the Complainant in the requested medium. If a copying or special service charge was incurred by the Complainant, the Custodian must certify that the

5. The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances pending the Custodian's compliance with the Council's Interim Order.

Interim Order Rendered by the
Government Records Council
On The 27th Day of August, 2013

Robin Berg Tabakin, Esq., Chair
Government Records Council

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

Steven Ritardi, Esq., Secretary
Government Records Council

Decision Distribution Date: August 28, 2013

**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
August 27, 2013 Council Meeting**

**Norman J. Lenchitz¹
Complainant**

GRC Complaint No. 2012-265

v.

**Pittsgrove Township (Salem)²
Custodial Agency**

Records Relevant to Complaint: Electronic copies of:

1. All professional service contracts with rate schedules issued from January 1, 2011 to August 8, 2012.
2. All invoices from January 1, 2011 to August 8, 2012 for the following professional service providers: Solicitor, Planning Board Solicitor, Engineer, Planning Board Engineer, Special Counsel (COAH), Grant Writer/Planner (COAH), Auditor, Accountant, and Risk Management Consultant.³

Custodian of Records: Steve Wymbbs

Request Received by Custodian: August 20, 2012

Response Made by Custodian: August 20, 2012

GRC Complaint Received: September 18, 2012

Background⁴

Request and Response:

On August 8, 2012, the Complainant submitted an Open Public Records Act (“OPRA”) request seeking the above-listed records. On August 20, 2012, the same business day the request was received, the Custodian responded in writing informing the Complainant that he received the Complainant’s OPRA request dated August 8, 2012. The Custodian requested an extension of time to address the Complainant’s OPRA request and informed the Complainant that he would “reply as soon as practicable.”

¹ No legal representation listed on record.

² Represented by George G. Rosenberger, Esq. (Woodstown, NJ).

³ There were other records requested that are not relevant to this complaint.

⁴ The parties may have submitted additional correspondence or made additional statements/assertions in the submissions identified herein. However, the Council includes in the Findings and Recommendations of the Executive Director the submissions necessary and relevant for the adjudication of this complaint.

Denial of Access Complaint:

On September 18, 2012, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant states that he provided the Custodian with his OPRA request on August 8, 2012. The Complainant further states that the Custodian subsequently responded to his request but did not completely fulfill the request.

Statement of Information:

On September 28, 2012, the Custodian filed a Statement of Information (“SOI”).⁵ The Custodian certifies that he received the Complainant’s OPRA request dated August 8, 2012, on August 20, 2012. The Custodian also certifies that he responded to the Complainant’s request on August 20, 2012. The Custodian further certifies that he supplied 790 pages of records to the Complainant on August 30, 2012.⁶

Analysis⁷

Sufficiency of Response

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. In Paff v. Willingboro Board of Education (Burlington), GRC Complaint No. 2007-272 (May 2008), the Council held that “...[t]he Custodian’s response was legally insufficient because he failed to respond to each request item individually. Therefore, the Custodian has violated N.J.S.A. 47:1A-5.g.” Moreover, in Hardwick v. NJ Department of Transportation, GRC Complaint No. 2007-164 (February 2008), the custodian responded by requesting an extension of time to address the request but failed to provide a date certain upon which the requested records would be provided. The Council held that the custodian’s request for an extension of time was inadequate under OPRA pursuant to N.J.S.A. 47:1A-5(i).

Here, the Custodian responded in writing to the Complainant’s OPRA request on the same business day the request was received; however, the Custodian failed to respond to each request item individually. Furthermore, although the Custodian informed the Complainant that his request would require many hours of compilation, the Custodian failed to provide a date certain upon which he would respond to the Complainant providing any responsive records. The Custodian merely stated that an extension of time to address the Complainant’s request would be necessary and that he would “reply as soon as practicable.”

As such, the Custodian’s written response was legally insufficient because the Custodian failed to respond to each item contained in the Complainant’s OPRA request and failed to provide a date certain upon which he would respond to the Complainant providing any responsive records. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i). See also Paff, *supra*, and Hardwick, *supra*.

⁵ The Custodian’s SOI was incomplete and failed to address items 9, 10, 11 and 12.

⁶ These disclosed records were responsive to request items that are not relevant to this complaint.

⁷ There may be other OPRA issues in this matter; however, the Council’s analysis is based solely on the claims made in the Complainant’s Denial of Access Complaint.

Unlawful Denial of Access

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 further provides that “[i]mmediate access ordinarily shall be granted to budgets, bills, vouchers, contracts, including collective negotiation agreements and individual employment contracts, and public employee salary and overtime information.” N.J.S.A. 47:1A-5(e).

Although the Custodian responded to the Complainant’s OPRA request immediately upon receipt of same, he failed to grant immediate *access* to the records relevant to the complaint. The Complainant requested access to contracts and invoices. Contracts are *per se* immediate access records and invoices are the equivalent of bills. In Kohn v. Township of Livingston (Essex), GRC Complaint No. 2012-03 (April 2013), the Council determined that “...*the Complainant’s request...sought invoices, which are bills*, another type of immediate access record. N.J.S.A. 47:1A-5(e).” (Emphasis added.) Here, the Custodian not only failed to provide immediate access to the requested contracts and invoices, he failed to provide access at all. Furthermore, the Custodian asserted no legal reason for denying access to the requested records.

Accordingly, the Custodian has violated OPRA because, after asserting no legal reason for denying access to any of the requested records, he failed to provide immediate access to request items numbered 1 and 2, which are contracts and invoices, respectively. N.J.S.A. 47:1A-5(e).

Moreover, the Custodian failed to bear his burden of proving that the denial of access to request items numbered 1 and 2 was authorized by law. N.J.S.A. 47:1A-6. Therefore, the Custodian must immediately disclose said records.

Knowing & Willful

The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances pending the Custodian’s compliance with the Council’s Interim Order.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that:

1. The Custodian’s written response was legally insufficient because the Custodian failed to respond to each item contained in the Complainant’s OPRA request and failed to provide a date certain upon which he would respond to the Complainant

providing any responsive records. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i). *See also Paff v. Willingboro Board of Education (Burlington)*, GRC Complaint No. 2007-272 (May 2008), and *Hardwick v. NJ Department of Transportation*, GRC Complaint No. 2007-164 (February 2008).

2. The Custodian has violated OPRA because, after asserting no legal reason for denying access to any of the requested records, he failed to provide immediate access to request items numbered 1 and 2, which are contracts and invoices, respectively. N.J.S.A. 47:1A-5(e).
3. The Custodian failed to bear his burden of proving that the denial of access to request items numbered 1 and 2 was authorized by law. N.J.S.A. 47:1A-6. Therefore, the Custodian must immediately disclose said records.
4. **The Custodian shall comply with paragraph 3 above immediately upon receipt of the Council's Interim Order with appropriate redactions, including a detailed document index explaining the lawful basis for each redaction, and within five (5) business days from receipt of the Council's Interim Order, provide certified confirmation of compliance, in accordance with N.J. Court Rule 1:4-4,⁸ to the Executive Director.⁹**
5. The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances pending the Custodian's compliance with the Council's Interim Order.

Prepared By: John E. Stewart, Esq.

Approved By: Brandon D. Minde, Esq.
Executive Director

August 20, 2013

⁸ "I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment."

⁹ Satisfactory compliance requires that the Custodian deliver the record(s) to the Complainant in the requested medium. If a copying or special service charge was incurred by the Complainant, the Custodian must certify that the record has been *made available* to the Complainant but the Custodian may withhold delivery of the record until the financial obligation is satisfied. Any such charge must adhere to the provisions of N.J.S.A. 47:1A-5.