



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

GRC Complaint No.: 2012-272

Complainant: Darian Vitello

Public Agency: Borough of Belmar Police Department (Monmouth)

Custodian of Record: Chief Thomas Palmisano

Date of Request: September 21, 2012

Date of Complaint: October 1, 2012¹

Complaint Disposition: The Complainant provided his OPRA requests for records to the Custodian on September 21, 2012. The Complainant verified his complaint on September 30, 2012, which is the fifth (5th) business day 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 the requested records 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 Provision: “[...]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 18, 2012

Prepared By: Harlynn A. Lack, Esq.
Case Manager

Approved By: Karyn Gordon, Esq.
Acting Executive Director

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



Date: October 23, 2012²

Distribution Date: December 18, 2012

² This complaint was prepared and scheduled for adjudication at the Council's October 30, 2012 meeting; however, said meeting was cancelled due to Hurricane Sandy.