



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

**GRC Complaint No.:** 2013-109

**Complainant:** Stacie Percella

**Public Agency:** City of Bayonne (Hudson)

**Custodian of Record:** Robert F. Sloan

**Date of Request:** April 4, 2013

**Date of Complaint:** April 16, 2013<sup>1</sup>

**Complaint Disposition:** On April 4, 2013, the Complainant submitted an Open Public Records Act (“OPRA”) request seeking overtime records. On April 9, 2013, the third (3<sup>rd</sup>) business day following receipt of such request, the Custodian requested a thirty (30) day extension of time to respond to the Complainant’s OPRA request. On April 15, 2013, the Complainant verified her complaint to the GRC, while still within the reasonably requested extension of time for the Custodian to respond. Here, because the Complainant verified her complaint before the reasonably requested extension of time had expired, this complaint is materially defective and must be dismissed.<sup>2</sup>

**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).<sup>3</sup>

“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:** April 30, 2013

<sup>1</sup> The GRC received the Denial of Access Complaint on said date.

<sup>2</sup> The Custodian violated N.J.S.A. 47:1A-5(e) because he failed to immediately respond to the Complainant’s request for overtime information, which is considered an immediate access record. However, the Custodian did not unlawfully deny access to the requested records because he requested a reasonable extension of time to provide the responsive records.

<sup>3</sup> A custodian must respond in writing to a complainant’s OPRA request either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days. See Kelley v. Township of Rockaway, GRC Complaint No. 2007-11 (Interim Order October 31, 2007).



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

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

Date: April 23, 2013

**Distribution Date: April 30, 2013**