



State of New Jersey
GOVERNMENT RECORDS COUNCIL

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CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

RICHARD E. CONSTABLE, III
Commissioner

FINAL DECISION

September 24, 2013 Government Records Council Meeting

John T. Cokos
Complainant

Complaint No. 2013-60

v.

Township of Deptford (Gloucester)
Custodian of Record

At the September 24, 2103 public meeting, the Government Records Council (“Council”) considered the September 17, 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 the Complainant’s request is invalid because it failed to provide ample identifiers necessary for the Custodian to locate any responsive records. MAG Entm’t, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005); Bent v. Stafford Police Department, 381 N.J. Super. 30, 37 (App. Div. 2005),¹ N.J. Builders Ass’n v. N.J. Council on Affordable Housing, 390 N.J. Super. 166, 177-78 (App. Div. 2007); Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009).

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 24th Day of September, 2013

Robin Berg Tabakin, Esq., Chair
Government Records Council



¹ Affirming Bent v. Stafford Police Department, GRC Case No. 2004-78 (October 2004).

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 26, 2013

**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

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

**John T. Cokos¹
Complainant**

GRC Complaint No. 2013-60

v.

**Township of Deptford (Gloucester)²
Custodial Agency**

Records Relevant to Complaint: “[A]ll documentation identifying the Insurance Carrier for the Township of Deptford, location, and points of contact as this is public information which you have refused to reveal.”

Custodian of Record: Dina L. Zawadski

Request Received by Custodian: February 8, 2013

Response Made by Custodian: February 11, 2013

GRC Complaint Received: February 22, 2013

Background³

Request and Response:

On February 5, 2013, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned documents. On February 11, 2013, three (3) business days later, the Custodian responded, in writing, denying access to the Complainant’s OPRA request because the request for records was invalid due to it being “broad, vague, and ambiguous.” It is unclear which documents the Complainant is seeking.

Denial of Access Complaint:

On February 22, 2013, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant asserts that the Custodian’s refusal to “release the identity of the Insurance Carrier” demonstrates a deliberate attempt to impede his access to public records.

¹ No legal representation listed on record.

² Represented by Douglas M. Long, Esq. (Woodbury, NJ).

³ 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.

Statement of Information:

On March 1, 2013, the Custodian filed a Statement of Information (“SOI”). The Custodian certifies that she received the Complainant’s OPRA request on February 8, 2013. On February 11, 2013, the Custodian denied access to said request on the basis that Complainant’s appeal for records was invalid due to vagueness.

Analysis⁴

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.

The New Jersey Appellate Division has held that “[w]hile OPRA provides an alternative means of access to government documents not otherwise exempted from its reach, *it is not intended as a research tool litigants may use to force government officials to identify and siphon useful information. Rather, OPRA simply operates to make identifiable government records ‘readily accessible for inspection, copying, or examination.’ N.J.S.A. 47:1A-1.*” MAG Entm’t, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005) (emphasis added). The Court reasoned that:

Most significantly, the request failed to identify with any specificity or particularity the governmental records sought. *MAG provided neither names nor any identifiers other than a broad generic description of a brand or type of case prosecuted by the agency in the past.* Such an open-ended demand required the Division's records custodian to manually search through all of the agency's files, analyze, compile and collate the information contained therein, and identify for MAG the cases relative to its selective enforcement defense in the OAL litigation. Further, once the cases were identified, the records custodian would then be required to evaluate, sort out, and determine the documents to be produced and those otherwise exempted.

Id. at 549 (emphasis added).

The Court further held that “[u]nder OPRA, *agencies are required to disclose only ‘identifiable’ government records* not otherwise exempt ... In short, OPRA does not countenance open-ended searches of an agency's files.” Id. (emphasis added). *See also Bent v. Stafford Police*

⁴ 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.

Dep't, 381 N.J. Super. 30, 37 (App. Div. 2005),⁵ N.J. Builders Ass'n v. N.J. Council on Affordable Housing, 390 N.J. Super. 166, 177-78 (App. Div. 2007) and Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009).

Here, the Complainant sought “all documentation identifying the Insurance Carrier for the Township of Deptford.” The Complainant did not provide any limitations to help identify which documents were sought; for example, by specifying types of coverage or time periods. The Complainant’s request on its face lacked sufficient information to allow the Custodian to identify and provide any responsive records. *See Bent*, 381 N.J. Super. at 37 (holding that a proper request under OPRA must identify with reasonable clarity those documents that are desired).

Therefore, the Complainant’s request is invalid because it failed to provide ample identifiers necessary for the Custodian to locate any responsive records. *See MAG*, 375 N.J. Super. at 546, 549; *Bent*, 381 N.J. Super. at 37; N.J. Builders, 390 N.J. Super. at 177-78; Schuler, GRC, 2007-15.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that the Complainant’s request is invalid because it failed to provide ample identifiers necessary for the Custodian to locate any responsive records. MAG Entm’t, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005); Bent v. Stafford Police Department, 381 N.J. Super. 30, 37 (App. Div. 2005),⁶ N.J. Builders Ass'n v. N.J. Council on Affordable Housing, 390 N.J. Super. 166, 177-78 (App. Div. 2007); Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009).

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

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

September 17, 2013

⁵ Affirming Bent v. Stafford Police Department, GRC Case No. 2004-78 (October 2004).

⁶ Affirming Bent v. Stafford Police Department, GRC Case No. 2004-78 (October 2004).