



State of New Jersey
GOVERNMENT RECORDS COUNCIL

101 SOUTH BROAD STREET
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TRENTON, NJ 08625-0819

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

RICHARD E. CONSTABLE, III
Commissioner

FINAL DECISION

February 24, 2015 Government Records Council Meeting

Thomas Caggiano
Complainant

Complaint No. 2014-374

v.

County of Sussex Board of Chosen Freeholders
Custodian of Record

At the February 24, 2015 public meeting, the Government Records Council (“Council”) considered the February 17, 2015 Findings and Recommendations of the Executive Director and all related documentation submitted by the parties. The Council, by a majority vote, adopted the entirety of said findings and recommendations. The Council, therefore, finds that this complaint should be dismissed based on Honorable Stephan C. Hansbury’s “Order” dated January 28, 2015.

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 February, 2015

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: February 26, 2015



**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
February 24, 2015 Council Meeting**

**Thomas Caggiano¹
Complainant**

GRC Complaint No. 2014-374

v.

**County of Sussex Board of Chosen Freeholders²
Custodial Agency**

Records Relevant to Complaint: Various

Custodian of Record: John H. Eskilson
Request Received by Custodian: October 20, 2014
Response Made by Custodian: October 29, 2014
GRC Complaint Received: November 12, 2014

Background³

Prior History:

On April 4, 2013, the Honorable Thomas L. Weisenbeck, A.J.S.C., granted the County of Sussex Board of Chosen Freeholders' ("the County") motion for an "Order Imposing Preliminary Restraints," henceforth enjoining the Complainant from submitting new OPRA requests during the pendency of litigation relevant to Docket No. SSX-C-1-13. Judge Weisenbeck further ordered that the County was not required to respond to any requests received during or while the litigation was still pending; however, any Denial of Access Complaints filed with the Government Records Council ("GRC") were not affected by the injunction.

On September 23, 2014, the Honorable Stephan C. Hansbury, PJ. Ch., granted a "Final Order of Injunctive Relief," permanently barring the Complainant from submitting OPRA requests in any manner other than on the County's official OPRA request form.

Request and Response:

On October 14, 2014, the Complainant submitted an Open Public Records Act ("OPRA") request with attachments to the Custodian seeking various records. On October 29, 2014, Mr. Robert B. Campbell, Esq., responded in writing on behalf of the County stating that the

¹ No legal representation listed on record.

² Represented by Dennis R. McConnell, Esq., (Newton, 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.

Thomas Caggiano v. County of Sussex Board of Chosen Freeholders, 2014-374 – Findings and Recommendations of the Executive Director

Complainant's OPRA request violated the terms of Judge Hansbury's Order. Specifically, Mr. Campbell noted that the form was used only as a cover page for a multi-page submission including statements, opinions, and complaints. Mr. Campbell stated that, for this reason, the County will not process the Complainant's OPRA request and reminded the Complainant to conform to the Order going forward.

Denial of Access Complaint:

On November 12, 2014, the Complainant filed a Denial of Access Complaint with the Government Records Council ("GRC"). The Complainant contended that his request was deemed denied. Further, the Complainant asserted that the County's denial was unlawful.

Supplemental Court Actions:

On November 14, 2014, Judge Hansbury denied the Complainant's request for a stay of the Final Order of Injunctive Relief.

Statement of Information:

On November 26, 2014, Mr. Campbell filed a Statement of Information ("SOI") on behalf of the Custodian. Therein, Mr. Campbell certified that the County was not required to respond to the Complainant's OPRA request because it violated the Final Order of Injunctive Relief.

Supplemental Court Actions:

On December 12, 2014, the County submitted a "Notice of Motion for Relief" to Judge Hansbury, requesting that he nullify the Complainant's October 14, 2014 request. Further, the County requested that Judge Hansbury revise the "Final Order of Injunctive Relief" to bar the Complainant from submitting any future OPRA requests. On January 28, 2015, Judge Hansbury granted the requested relief. *See attached.*

Analysis

No analysis required.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that this complaint should be dismissed based on Honorable Stephan C. Hansbury's "Order" dated January 28, 2015.

Prepared By: Frank F. Caruso
Communications Specialist/
Resource Manager

Approved By: Dawn R. SanFilippo
Deputy Executive Director

February 17, 2015

Sussex County Counsel
Sussex County Administrative Center
One Spring Street
Newton, NJ 07860
Telephone: (973) 347-2222
Attorneys for Plaintiffs
Dennis R. McConnell, Esq., County Counsel

FILED

JAN 28 2015

STEPHAN C. HANSBURY
PRESIDING JUDGE
CHANCERY DIVISION

**THE BOARD OF CHOSEN
FREEHOLDERS of the COUNTY OF
SUSSEX, a political subdivision of the State
of New Jersey; ELAINE A. MORGAN,
Clerk Of The Sussex County Board of
Chosen Freeholders; MICHAEL F.
STRADA, Sussex County Sheriff; and
DENNIS R. MCCONNELL, ESQ., Sussex
County Counsel**

Plaintiffs,

v.

**THOMAS CAGGIANO,
Defendant.**

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - SUSSEX COUNTY**

DOCKET NO: SSX-C-1 -13 ⁺C-43-13

CIVIL ACTION

ORDER

THIS MATTER having come before the Court upon the Motion of Sussex County Counsel, attorneys for Plaintiffs, Board of Chosen Freeholders of the County of Sussex, Elaine A. Morgan, Clerk of the Board, Michael F. Strada, Sussex County Sheriff and Dennis R. McConnell, Esq., Sussex County Counsel, upon notice to Defendant, Thomas Caggiano, and to Kelly & Ward, LLC, counsel for Co-Plaintiff Township of Green; and the Court having considered the papers submitted by ~~the parties~~ ^{Plaintiffs} and having considered other argument, and good cause appearing,

IT IS on this *28th* day of *January*, 2015;

ORDERED AS FOLLOWS:

FEB 04 2015

RECEIVED

1. The OPRA request by Defendant Caggiano to Plaintiff, Board of Chosen Freeholders of the County of Sussex, GRC Complaint #2014-374, dated October 14, 2014, is a nullity and of no legal force or effect, and Plaintiff has no obligation to respond to the same, nor shall Plaintiff be subject to any sanction or penalty under OPRA for not responding to the same.
2. Any issue, dispute or controversy arising out of ~~any pending or future~~ OPRA request by Defendant to any Plaintiff ~~in the within action~~ lies solely within the jurisdiction of this Court, and ~~all pending OPRA matters are to be transferred to this Court forthwith for all proceedings.~~
3. This Court's Order for Injunctive Relief, entered on September 23, 2014, is hereby amended to reflect that Defendant Caggiano is prohibited and permanently restrained and enjoined from serving any request for a public record of any kind to any Plaintiff herein whether by OPRA or by way of a common law right of access.
4. This Court's Order for Injunctive Relief, entered on September 23, 2014, is hereby amended to reflect that Defendant Caggiano is prohibited and permanently restrained and enjoined from filing any pleading, motion or other court document with this Court, and from serving the same upon any of the within Plaintiffs unless he shall have first have obtained written leave to do so from the Assignment Judge of the Morris and Sussex Vicinage of the Superior Court of New Jersey.
5. Defendant is in continuing contempt of this Court and all prior fines and penalties heretofore imposed upon Defendant Caggiano by this Court are continued, and Defendant is hereby assessed an additional penalty in the sum of two thousand (\$2000) dollars, and further, ~~Defendant shall be assessed an additional sum of _____ (\$ _____) dollars for each month within which any portion of the within monetary sanction shall remain unpaid. The total outstanding penalty assessed against Defendant Caggiano for contempt as of the date of the entry of this Order is _____ (\$ _____) dollars.~~
6. Should Defendant not pay all penalties assessed against him 4:00 P.M. in the afternoon on March 2, 2015, it is the Order of this Court that a warrant for Defendant's arrest shall issue and that Defendant shall be incarcerated until such time as that monetary penalty then outstanding should be paid and satisfied in full.

7. All other provisions of the Order for Injunctive Relief, entered by this Court on September 23, 2014, not expressly amended by this Order are affirmed and continued in full force and effect.
8. Attorney fees and costs of suit are hereby awarded against Defendant to the Sussex County Plaintiffs. Counsel for Plaintiffs shall file an affidavit of services and costs to this Court within 14 days of the entry of this Order.
9. Other:

IT IS FURTHER ORDERED that Plaintiff's counsel shall serve a copy of this Order upon all parties, and shall serve a courtesy copy upon the Government Records Council, within 10 days of receipt.

Just as defendant chose not to defend himself at trial, he has again chosen not to oppose this Stay Order motion. It is clear that he

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has continued to violate/j ignore the court's order of Sequestration. Rosenblum v. Brown & Closter, 333 NJSuper 385, (App Div 2001)

Opposed *permits this court under the extreme circumstances presented here, to grant the relief in Paragraph 4.*

Unopposed *Paraph 2 is denied. This issue was not briefed and so the authority for such relief was not presented. Future assessments are denied as it is not appropriate to assume future violations*