



**NEW JERSEY GOVERNMENT RECORDS COUNCIL**  
**Administrative Complaint Disposition – No Correspondence Received by the Custodian**  
**Regarding This Request**

**Robert A. Verry<sup>1</sup>**  
**Complainant**

**GRC Complaint No. 2014-375**

v.

**Franklin Fire District No. 1 (Somerset)<sup>2</sup>**  
**Custodial Agency**

**Custodian of Record:** Tim Szymborski  
**Request Received by Custodian:** N/A  
**GRC Complaint Received:** November 12, 2014

**Complaint Disposition:** The Custodian certified in the Statement of Information that he did not receive the subject OPRA request, which was dated October 21, 2014. The Custodian further certified that he asked Dawn Cuddy to search her e-mails for the OPRA request, to which Ms. Cuddy responded that she could not locate the request. Additionally, the Complainant provided no evidence to contradict the Custodian's certification. Therefore, this complaint is without any reasonable factual basis to pursue.

**Applicable OPRA Provision:**

“The custodian of a public agency shall adopt a form for the use of any person who requests access to a government record held or controlled by the public agency. The form shall provide space for the name, address, and phone number of the requestor and a brief description of the government record sought. The form shall include space for the custodian to indicate which record will be made available, when the record will be available, and the fees to be charged. The form shall also include the following: (1) specific directions and procedures for requesting a record; (2) a statement as to whether prepayment of fees or a deposit is required; (3) the time period within which the public agency is required by [OPRA], to make the record available; (4) a statement of the requestor's right to challenge a decision by the public agency to deny access and the procedure for filing an appeal; (5) space for the custodian to list reasons if a request is denied in whole or in part; (6) space for the requestor to sign and date the form; (7) space for the custodian to sign and date the form if the request is fulfilled or denied. The custodian may require a deposit against costs for reproducing documents sought through an anonymous request whenever the custodian anticipates that the information thus requested will cost in excess of \$5 to reproduce.” N.J.S.A. 47:1A-5(f).

<sup>1</sup> Represented by John A. Bermingham, Jr., Esq. (Mount Bethel, PA).

<sup>2</sup> Represented by Dominic DiYanni, Esq., of Eric M. Bernstein & Associates, LLC (Warren, NJ).



“A request for access to a government record shall be in writing and hand-delivered, mailed, transmitted electronically, or otherwise conveyed to the appropriate custodian.” N.J.S.A. 47:1A-5(g).

“The council shall make a determination as to whether the complaint is within its jurisdiction or frivolous or *without any reasonable factual basis*.” N.J.S.A. 47:1A-7(e) (emphasis added).

**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:** June 30, 2015

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

Reviewed By: Joseph D. Glover  
Executive Director

Date: June 23, 2015

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