



State of New Jersey

DEPARTMENT OF COMMUNITY AFFAIRS

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CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

CHARLES A. RICHMAN
Commissioner

FINAL DECISION

August 29, 2017 Government Records Council Meeting

Shawn G. Hopkins

Complainant

v.

Borough of Spring Lake Heights (Monmouth)

Custodian of Record

Complaint No. 2014-51

At the August 29, 2017 public meeting, the Government Records Council (“Council”) considered the August 22, 2017 Supplemental 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:

1. The current Custodian complied with the Council’s July 25, 2017 Interim Order because she responded in the extended time frame by providing the responsive CAMA data and photographs to the Complainant and simultaneously providing certified confirmation of compliance to the Executive Director.
2. The original Custodian failed to respond timely, resulting in a “deemed” denial, and he unlawfully denied access to the responsive CAMA data and photographs. Notwithstanding, the current Custodian provided evidence that the original Custodian provided a response at the outset of the request, about which the GRC had no knowledge because the original Custodian failed to submit a Statement of Information. Further, the current Custodian has provided the Complainant with all responsive records. Thus, the evidence of record does not indicate that the original Custodian’s violation of OPRA had a positive element of conscious wrongdoing or was intentional and deliberate. Therefore, the original Custodian’s actions do not rise to the level of a knowing and willful violation of OPRA and unreasonable denial of access under the totality of the circumstances.

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 29th Day of August, 2017

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: August 31, 2017

**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Supplemental Findings and Recommendations of the Executive Director
August 29, 2017 Council Meeting**

**Shawn G. Hopkins¹
Complainant**

GRC Complaint No. 2014-51

v.

**Borough of Spring Lake Heights (Monmouth)²
Custodial Agency**

Records Relevant to Complaint: Electronic copies via e-mail of the computer assisted mass appraisal (“CAMA”) data for the Borough of Spring Lake Heights (“Borough”), including property photographs.

Custodian of Record: Jay Delaney³
Request Received by Custodian: Unknown
Response Made by Custodian: None
GRC Complaint Received: January 23, 2014

Background

July 25, 2017 Council Meeting:

At its July 25, 2017 public meeting, the Council considered the July 18, 2017 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, found that:

1. The Custodian did not bear his burden of proof that he timely responded to the Complainant’s OPRA request. N.J.S.A. 47:1A-6. As such, the Custodian’s failure to respond in writing to the 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, results in a “deemed” denial of the Complainant’s OPRA request pursuant to N.J.S.A. 47:1A-5(g), N.J.S.A. 47:1A-5(i), and Kelley v. Twp. of Rockaway, GRC Complaint No. 2007-11 (Interim Order October 31, 2007).
2. The Custodian might have unlawfully denied access to the responsive CAMA data and property photographs. N.J.S.A. 47:1A-6. *See also* Hopkins v. Monmouth Cnty.

¹ No legal representation listed on record.

² No legal representation listed on record.

³ The current Custodian of Record is Janine Gillis.

Bd. of Taxation, et al, GRC Complaint No. 2014-01 *et seq.* (Interim Order dated July 26, 2016). The Custodian must therefore disclose all responsive records. If the Custodian believes that certain records do not exist, the Custodian must certify to this fact.

3. **The Custodian shall comply with conclusion No. 2 above within five (5) business days from receipt of the Council's Interim Order with appropriate redactions, including a detailed document index explaining the lawful basis for each redaction, and simultaneously provide certified confirmation of compliance, in accordance with N.J. Court Rule 1:4-4,⁴ to the Executive Director.⁵**
4. The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances, pending the Custodian's compliance with the Council's Interim Order.

Procedural History:

On July 27, 2017, the Council distributed its Interim Order to all parties. On August 2, 2017, the current Custodian responded to the Council's Interim Order. Therein, the current Custodian certified that she was appointed Borough Clerk on April 13, 2015. The current Custodian noted that the original Custodian continued to serve as Borough Administrator from that time until July 20, 2017. The current Custodian affirmed that the original Custodian received the Complainant's OPRA request in 2014 and sent him an acknowledgement e-mail on January 15, 2014; no further communications regarding the subject OPRA request existed. The current Custodian also noted that she was unaware of this complaint until she received the Council's Interim Order.

The current Custodian certified that Tax Assessor Mitch Elias compiled the responsive CAMA data and photographs. The current Custodian also affirmed that Monmouth County ("County") possessed additional photographs that post-date the OPRA request. The current Custodian certified that she e-mailed the responsive CAMA data to the Complainant and sent to the Complainant via regular mail three (3) CDs containing responsive photographs. The current Custodian also requested an extension of time to comply in the event that the Complainant does not receive the photographs before the expiration of the compliance time frame. The current Custodian also asserted that she did not knowingly and willfully violate OPRA because she was not the custodian of record at the time of the subject OPRA request.

On August 3, 2017, the Complainant e-mailed the current Custodian, advising that the directions he supplied in the subject OPRA request no longer produced the requested CAMA data. The Complainant noted that this was due to a Microsystems-NJ.com, L.L.C., software

⁴ "I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment."

⁵ Satisfactory compliance requires that the Custodian deliver the record(s) to the Complainant in the requested medium. If a copying or special service charge was incurred by the Complainant, the Custodian must certify that the record has been *made available* to the Complainant but the Custodian may withhold delivery of the record until the financial obligation is satisfied. Any such charge must adhere to the provisions of N.J.S.A. 47:1A-5.

change in 2014. The Complainant requested that the current Custodian contact the County or Microsystems for updated instructions and that he could also assist her if all else failed.

On the same day, the Government Records Council (“GRC”) extended the time frame to comply through August 11, 2017, to allow the Complainant to confirm receipt of the responsive photographs.

On August 4, 2017, the current Custodian e-mailed the Complainant, asking whether a file dated December 31, 2013, would be acceptable. On the same day, the Complainant responded, consenting to the date, as long as all requested files are included.

On August 6, 2017, the Complainant e-mailed the current Custodian, confirming that he received the CDs on August 5, 2017. The Complainant also noted that he was still waiting on the correct CAMA data.

On August 7, 2017, the current Custodian e-mailed the correct CAMA data and supplemental certification to the Complainant and GRC. Therein, the current Custodian certified that the disclosure resulted from the Complainant’s August 3, 2017 e-mail. The current Custodian affirmed that Mr. Elias contacted Microsystems and was able to obtain the responsive CAMA data. The Custodian affirmed that she was sending the correct CAMA data to the Complainant as part of this e-mail. The current Custodian also certified that she received confirmation from UPS and the Complainant that he received the CDs.

Analysis

Compliance

At its July 25, 2017 meeting, the Council ordered the original Custodian to disclose to the Complainant the responsive CAMA data and photographs and to submit certified confirmation of compliance, in accordance with N.J. Court Rule 1:4-4, to the Executive Director. On July 27, 2017, the Council distributed its Interim Order to all parties, providing the original Custodian five (5) business days to comply with the terms of said Order. Thus, the original Custodian’s response was due by close of business on August 3, 2017.

On August 2, 2017, the fourth (4th) business day after receipt of the Council’s Order, the current Custodian disclosed CAMA data to the Complainant, advised that she mailed three (3) CDs containing photographs to the Complainant, and sought an extension to comply in order to confirm that the Complainant received said CDs. The current Custodian also provided certified confirmation of compliance. The GRC granted said extension request through August 11, 2017. On August 7, 2017, the current Custodian provided a supplemental certification. Therein, she certified that she provided the correct CAMA data to the Complainant and that he confirmed receipt of the photographs. As in her first response, the current Custodian again included certified confirmation of compliance.

Therefore, the current Custodian complied with the Council’s July 25, 2017 Interim Order because she responded in the extended time frame by providing the responsive CAMA

data and photographs to the Complainant and simultaneously providing certified confirmation of compliance to the Executive Director.

Knowing & Willful

OPRA states that “[a] public official, officer, employee or custodian who knowingly or willfully violates [OPRA], and is found to have unreasonably denied access under the totality of the circumstances, shall be subject to a civil penalty . . .” N.J.S.A. 47:1A-11(a). OPRA allows the Council to determine a knowing and willful violation of the law and unreasonable denial of access under the totality of the circumstances. Specifically OPRA states “. . . [i]f the council determines, by a majority vote of its members, that a custodian has knowingly and willfully violated [OPRA], and is found to have unreasonably denied access under the totality of the circumstances, the council may impose the penalties provided for in [OPRA] . . .” N.J.S.A. 47:1A-7(e).

Certain legal standards must be considered when making the determination of whether the Custodian’s actions rise to the level of a “knowing and willful” violation of OPRA. The following statements must be true for a determination that the Custodian “knowingly and willfully” violated OPRA: the Custodian’s actions must have been much more than negligent conduct (Alston v. City of Camden, 168 N.J. 170, 185 (2001)); the Custodian must have had some knowledge that his actions were wrongful (Fielder v. Stonack, 141 N.J. 101, 124 (1995)); the Custodian’s actions must have had a positive element of conscious wrongdoing (Berg v. Reaction Motors Div., 37 N.J. 396, 414 (1962)); the Custodian’s actions must have been forbidden with actual, not imputed, knowledge that the actions were forbidden (id.; Marley v. Borough of Palmyra, 193 N.J. Super. 271, 294-95 (Law Div. 1993)); the Custodian’s actions must have been intentional and deliberate, with knowledge of their wrongfulness, and not merely negligent, heedless or unintentional (ECES v. Salmon, 295 N.J. Super. 86, 107 (App. Div. 1996)).

Here, the original Custodian failed to respond timely, resulting in a “deemed” denial, and he unlawfully denied access to the responsive CAMA data and photographs. Notwithstanding, the current Custodian provided evidence that the original Custodian provided a response at the outset of the request, about which the GRC had no knowledge because the original Custodian failed to submit a Statement of Information. Further, the current Custodian has provided the Complainant with all responsive records. Thus, the evidence of record does not indicate that the original Custodian’s violation of OPRA had a positive element of conscious wrongdoing or was intentional and deliberate. Therefore, the original Custodian’s actions do not rise to the level of a knowing and willful violation of OPRA and unreasonable denial of access under the totality of the circumstances.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that:

1. The current Custodian complied with the Council’s July 25, 2017 Interim Order because she responded in the extended time frame by providing the responsive

- CAMA data and photographs to the Complainant and simultaneously providing certified confirmation of compliance to the Executive Director.
2. The original Custodian failed to respond timely, resulting in a “deemed” denial, and he unlawfully denied access to the responsive CAMA data and photographs. Notwithstanding, the current Custodian provided evidence that the original Custodian provided a response at the outset of the request, about which the GRC had no knowledge because the original Custodian failed to submit a Statement of Information. Further, the current Custodian has provided the Complainant with all responsive records. Thus, the evidence of record does not indicate that the original Custodian’s violation of OPRA had a positive element of conscious wrongdoing or was intentional and deliberate. Therefore, the original Custodian’s actions do not rise to the level of a knowing and willful violation of OPRA and unreasonable denial of access under the totality of the circumstances.

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

August 22, 2017



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
101 SOUTH BROAD STREET
PO BOX 819
TRENTON, NJ 08625-0819

CHRIS CHRISTIE
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KIM GUADAGNO
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CHARLES A. RICHMAN
Commissioner

INTERIM ORDER

July 25, 2017 Government Records Council Meeting

Shawn G. Hopkins
Complainant

Complaint No. 2014-51

v.

Borough of Spring Lake Heights (Monmouth)
Custodian of Record

At the July 25, 2017 public meeting, the Government Records Council (“Council”) considered the July 18, 2017 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:

1. The Custodian did not bear his burden of proof that he timely responded to the Complainant’s OPRA request. N.J.S.A. 47:1A-6. As such, the Custodian’s failure to respond in writing to the 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, results in a “deemed” denial of the Complainant’s OPRA request pursuant to N.J.S.A. 47:1A-5(g), N.J.S.A. 47:1A-5(i), and Kelley v. Twp. of Rockaway, GRC Complaint No. 2007-11 (Interim Order October 31, 2007).
2. The Custodian might have unlawfully denied access to the responsive CAMA data and property photographs. N.J.S.A. 47:1A-6. *See also* Hopkins v. Monmouth Cnty. Bd. of Taxation, et al, GRC Complaint No. 2014-01 *et seq.* (Interim Order dated July 26, 2016). The Custodian must therefore disclose all responsive records. If the Custodian believes that certain records do not exist, the Custodian must certify to this fact.
3. **The Custodian shall comply with conclusion No. 2 above within five (5) business days from receipt of the Council’s Interim Order with appropriate redactions, including a detailed document index explaining the lawful basis for each redaction, and simultaneously provide certified confirmation of compliance, in accordance with N.J. Court Rule 1:4-4,¹ to the Executive Director.²**

¹ "I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment."

² Satisfactory compliance requires that the Custodian deliver the record(s) to the Complainant in the requested medium. If a copying or special service charge was incurred by the Complainant, the Custodian must certify that the



4. The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances, pending the Custodian's compliance with the Council's Interim Order.

Interim Order Rendered by the
Government Records Council
On The 25th Day of July, 2017

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: July 27, 2017

**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
July 25, 2017 Council Meeting**

**Shawn G. Hopkins¹
Complainant**

GRC Complaint No. 2014-51

v.

**Borough of Spring Lake Heights (Monmouth)²
Custodial Agency**

Records Relevant to Complaint: Electronic copies via e-mail of the computer assisted mass appraisal (“CAMA”) data for the Borough of Spring Lake Heights (“Borough”), including property photographs.

Custodian of Record: Jay Delaney
Request Received by Custodian: Unknown
Response Made by Custodian: None
GRC Complaint Received: January 23, 2014

Background³

Request and Response:

On January 7, 2014, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. The Custodian did not respond to the Complainant’s OPRA request.

Denial of Access Complaint:

On January 23, 2014, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant stated that he previously requested CAMA data from the Monmouth County (“County”) Tax Board on December 18, 2013.⁴ The Complainant stated that the County advised him to request the data individually from each municipality. The Complainant noted the Borough’s failure to respond to his OPRA request.

¹ No legal representation listed on record.

² No legal representation listed on record.

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.

⁴ This request was the subject of Hopkins v. Monmouth Cnty. Bd. of Taxation, et al, GRC Complaint No. 2014-01 *et seq.*

The Complainant argued that the requested CAMA data has been stored in a database that the County has paid for and maintained since 1996. The Complainant asserted that the software program utilized for the data helps maintain and calculate assessments. The Complainant asserted that he believed that the Borough unlawfully denied access to the requested data because:

- Six (6) municipalities in Monmouth County, Morris County, and Sussex County, as well as all 24 municipalities in Gloucester County, disclosed CAMA data to him. All municipalities utilize Microsystems as their MOD-IV/CAMA vendor.
- The County funds, maintains, and operates the software program under a 1996 shared services agreement.
- The County accesses various information from the database.
- S-2234, entitled “Monmouth Assessment Demonstration Program,” requires⁵ all municipalities within the County to utilize the MOD-IV/CAMA program, and there is a retention schedule for property record cards (“PRC”).
- Revaluation contracts require firms to deliver PRCs to the municipality, who utilize them to make the data files.
- The Tax Assessor’s handbook refers to permanent PRCs and information that should be contained within an assessor’s files.

Statement of Information:

On February 19, 2014, the GRC requested a completed Statement of Information (“SOI”) from the Custodian. On March 24, 2014, the GRC sent a “No Defense” letter to the Custodian, requesting a completed SOI within three (3) business days of receipt. To date, the GRC has not received a response from the Custodian.

Analysis

Timeliness

OPRA mandates that a custodian must either grant or deny access to requested records within seven (7) business days from receipt of said request. N.J.S.A. 47:1A-5(i). A custodian’s failure to respond within the required seven (7) business days results in a “deemed” denial. Id. Further, a custodian’s response, either granting or denying access, must be in writing pursuant to N.J.S.A. 47:1A-5(g).⁶ Thus, a custodian’s failure to 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, results in a “deemed” denial of

⁵ On January 10, 2011, the Senate passed S-2234 (Sca) 1R by a vote of 39-0. On that same date, the bill was received in the Assembly and referred to the Assembly Housing and Local Government Committee. Neither S-2234 nor its Assembly counterpart, A-3227, saw any further action in the Assembly during the 2010-2011 legislative session. The Complainant might instead be referring to S-1213, which Governor Christie signed into law as L. 2013, c. 15, on January 25, 2013.

⁶ A custodian’s written response, either granting access, denying access, seeking clarification, or requesting an extension of time within the statutorily mandated seven (7) business days, even if said response is not on the agency’s official OPRA request form, is a valid response pursuant to OPRA.

the complainant's OPRA request pursuant to N.J.S.A. 47:1A-5(g), N.J.S.A. 47:1A-5(i), and Kelley v. Twp. of Rockaway, GRC Complaint No. 2007-11 (Interim Order October 31, 2007).

In this matter, the evidence of record indicates that the Custodian did not respond to the Complainant's OPRA request. Additionally, the Custodian did not submit an SOI, either accepting or disputing that he did not respond to the Complainant's OPRA request.

Therefore, the Custodian did not bear his burden of proof that he timely responded to the Complainant's OPRA request. N.J.S.A. 47:1A-6. As such, the Custodian's failure to respond in writing to the 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, results in a "deemed" denial of the Complainant's OPRA request pursuant to N.J.S.A. 47:1A-5(g), N.J.S.A. 47:1A-5(i), and Kelley, GRC 2007-11.

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.

In the instant matter, the Complainant sought access to CAMA data and property photographs. However, the Custodian did not respond to the Complainant's OPRA request. Additionally, the Custodian failed to submit an SOI. In the absence of either a response or an SOI to provide any evidence to the contrary, the GRC concludes that the Custodian might have unlawfully denied access to the responsive records.

Pursuant to N.J.A.C. 1:1-15.2(a) and (b), an agency or judge may take official notice of judicially noticeable facts (as explained in the New Jersey Rules of Evidence at N.J.R.E. 201) and generally recognized technical or scientific facts within the specialized knowledge of the agency or the judge. See Sanders v. Div. of Motor Vehicles, 131 N.J. Super. 95 (App. Div. 1974). Aside from the reasons above for the GRC's conclusion, the Council's decision here must take into account the Final Decision of the Honorable Kimberly A. Moss, Administrative Law Judge ("ALJ"), in Hopkins, GRC 2014-01, *et seq.* (Interim Order dated July 26, 2016), because the ALJ held that CAMA data is a "government record" that is subject to access under OPRA.⁷ Further, the ALJ held that "CAMA data . . . are used in the ordinary course of business and none of the exceptions in N.J.S.A. 47:1A-1.1 apply in this matter." Id. at 18.

Accordingly, the Custodian might have unlawfully denied access to the responsive CAMA data and property photographs. N.J.S.A. 47:1A-6. See also Hopkins, GRC 2014-01, *et seq.* (Interim Order dated July 26, 2016). The Custodian must therefore disclose all responsive records. If the Custodian believes that certain records do not exist, the Custodian must certify to this fact.

⁷ The ALJ's Initial Decision became final by operation of law on April 4, 2016.

Finally, the Supreme Court's recent decision in Paff v. Twp. of Galloway, 2017 N.J. LEXIS 680 (2017) is binding on requests for electronic data. There, the Court accepted plaintiff's appeal from the Appellate Division's decision that the defendant municipality was not required to coalesce basic information into an e-mail log and disclose same. The Appellate Court reached its conclusion by determining that such an action was akin to creating a record, which OPRA did not require (notwithstanding that the e-mail log would have taken a few key strokes to create). The Court reversed and remanded, holding that basic e-mail information stored electronically is a "government record" under OPRA, unless an exemption applies to that information. The GRC notes that Paff effectively negates any argument that disclosure of CAMA data would require the Custodian to create a record.

Knowing & Willful

The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances, pending the Custodian's compliance with the Council's Interim Order.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that:

1. The Custodian did not bear his burden of proof that he timely responded to the Complainant's OPRA request. N.J.S.A. 47:1A-6. As such, the Custodian's failure to respond in writing to the 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, results in a "deemed" denial of the Complainant's OPRA request pursuant to N.J.S.A. 47:1A-5(g), N.J.S.A. 47:1A-5(i), and Kelley v. Twp. of Rockaway, GRC Complaint No. 2007-11 (Interim Order October 31, 2007).
2. The Custodian might have unlawfully denied access to the responsive CAMA data and property photographs. N.J.S.A. 47:1A-6. *See also* Hopkins v. Monmouth Cnty. Bd. of Taxation, et al, GRC Complaint No. 2014-01 *et seq.* (Interim Order dated July 26, 2016). The Custodian must therefore disclose all responsive records. If the Custodian believes that certain records do not exist, the Custodian must certify to this fact.
3. **The Custodian shall comply with conclusion No. 2 above within five (5) business days from receipt of the Council's Interim Order with appropriate redactions, including a detailed document index explaining the lawful basis for each redaction, and simultaneously provide certified confirmation of compliance, in accordance with N.J. Court Rule 1:4-4,⁸ to the Executive Director.⁹**

⁸ "I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment."

⁹ Satisfactory compliance requires that the Custodian deliver the record(s) to the Complainant in the requested medium. If a copying or special service charge was incurred by the Complainant, the Custodian must certify that the

Shawn G. Hopkins v. Borough of Spring Lake Heights (Monmouth), 2014-51 – Findings and Recommendations of the Executive Director

4. The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances, pending the Custodian's compliance with the Council's Interim Order.

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

July 18, 2017

record has been *made available* to the Complainant but the Custodian may withhold delivery of the record until the financial obligation is satisfied. Any such charge must adhere to the provisions of N.J.S.A. 47:1A-5.

Shawn G. Hopkins v. Borough of Spring Lake Heights (Monmouth), 2014-51 – Findings and Recommendations of the Executive Director