



NEW JERSEY GOVERNMENT RECORDS COUNCIL
Administrative Complaint Disposition – Not A Valid OPRA Request

James M. Fader, Jr.
Complainant

GRC Complaint No. 2015-354

v.

Cape May County
Custodial Agency

Custodian of Record: Lauren F. Fogarty, Esq.
Request Received by Custodian: April 14, 2015
GRC Complaint Received: November 13, 2015

Complaint Disposition:

The Complainant submitted a non-form written request that did not reference OPRA.¹ The GRC's authority is limited to adjudicating denial of access complaints based on valid OPRA requests.²

Applicable OPRA Provision:

"A person who is denied access to a government record by the custodian of the record, at the option of the requestor, may . . . in lieu of filing an action in Superior Court, file a complaint with the Government Records Council established pursuant to [OPRA]." N.J.S.A. 47:1A-6.

"The Government Records Council shall . . . receive, hear, review and adjudicate a complaint filed by any person concerning a denial of access to a government record by a records custodian . . ." N.J.S.A. 47:1A-7(b).

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: February 21, 2017

Prepared By: Husna Kazmir
Staff Attorney

Date: February 14, 2017

Distribution Date: February 22, 2017

¹ In Renna v. County of Union, 407 N.J. Super. 230 (App. Div. 2009), the Appellate Division held that although requestors shall continue to use public agencies' OPRA request forms when making requests, no custodian shall withhold such records if the written request for such records, not presented on the official form, contains the requisite information prescribed in the section of OPRA requiring custodians to adopt a form. *Id.* Therefore, requestors may submit correspondence that requests records from a custodian under OPRA, as long as the request properly invokes OPRA.

² The GRC notes that while the Complainant's request did not properly invoke OPRA, the Custodian did respond (also without invoking OPRA) prior to the Complaint being filed and provided responsive records. The Complainant wrote to the GRC on February 5, 2016, advising that he was in receipt of all documents he requested.