



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

CHRIS CHRISTIE  
Governor

KIM GUADAGNO  
Lt. Governor

CHARLES A. RICHMAN  
Commissioner

**FINAL DECISION**

**April 25, 2017 Government Records Council Meeting**

Annette L. Steinhardt  
Complainant

v.

Bernardsville Police Department (Somerset)  
Custodian of Record

Complaint No. 2015-415

At the April 25, 2017 public meeting, the Government Records Council (“Council”) considered the April 18, 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 the Complainant has failed to establish in her request for reconsideration of the Council’s February 21, 2017 Administrative Case Disposition that either 1) the Council's decision is based upon a “palpably incorrect or irrational basis;” or 2) it is obvious that the Council did not consider the significance of probative, competent evidence. The Complainant failed to establish that the complaint should be reconsidered based on new evidence, extraordinary circumstances, fraud, or illegality. The Complainant has also failed to show that the Council acted arbitrarily, capriciously or unreasonably. Specifically, the Complainant failed to submit any competent evidence to refute that the e-mail she sent to the Custodian’s Counsel on November 29, 2015 was invalid under OPRA. Thus, the Complainant’s request for reconsideration should be denied. Cummings v. Bahr, 295 N.J. Super. 374 (App. Div. 1996); D’Atria v. D’Atria, 242 N.J. Super. 392 (Ch. Div. 1990); In The Matter Of The Petition Of Comcast Cablevision Of S. Jersey, Inc. For A Renewal Certificate Of Approval To Continue To Construct, Operate And Maintain A Cable Tel. Sys. In The City Of Atl. City, Cnty. Of Atl., State Of N.J., 2003 N.J. PUC LEXIS 438, 5-6 (N.J. PUC 2003).

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 25<sup>th</sup> Day of April, 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: April 27, 2017**

**STATE OF NEW JERSEY  
GOVERNMENT RECORDS COUNCIL**

*Reconsideration*

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

**Annette L. Steinhardt<sup>1</sup>  
Complainant**

**GRC Complaint No. 2015-415**

v.

**Bernardsville Police Department (Somerset)<sup>2</sup>  
Custodial Agency**

**Records Relevant to Complaint:** N/A

**Custodian of Record:** Chief Kevin J. Valentine  
**Request Received by Custodian:** N/A  
**Response Made by Custodian:** N/A  
**GRC Complaint Received:** November 20, 2015

**Background**

February 21, 2017 Council Meeting:

At its February 21, 2017 public meeting, the Council considered the February 14, 2017 Administrative Complaint Disposition and all related documentation submitted by the parties. The Council voted unanimously to adopt the entirety of said findings and recommendations. The Council, therefore, administratively dismissed this complaint as “Not a Valid OPRA Request” because the Complainant “submitted a non-form written request that did not reference OPRA.” The GRC noted that its authority “is limited to adjudicating denial of access complaints based on valid OPRA requests.” (*citing Renna v. Cnty. of Union*, 407 N.J. Super. 230 (App. Div. 2009)).

Procedural History:

On February 22, 2017, the Council distributed its Administrative Complaint Disposition to all parties. On March 9, 2017, the Complainant filed a request for reconsideration of the Council’s Administrative Complaint Disposition based on new evidence, extraordinary circumstances, fraud, and illegality. The Complainant’s request for reconsideration addressed a multitude of allegations levied against the Bernardsville Police Department. In an effort to support her request for reconsideration, the Complainant submitted a number of e-mails, pictures, various documents, and other dialogue regarding the allegations.

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<sup>1</sup> No legal representation listed on record.

<sup>2</sup> Represented by John R. Pidgeon, Esq. (Princeton, NJ).

## Analysis

### Reconsideration

Pursuant to N.J.A.C. 5:105-2.10, parties may file a request for a reconsideration of any decision rendered by the Council within ten (10) business days following receipt of a Council decision. Requests must be in writing, delivered to the Council, and served on all parties. Parties must file any objection to the request for reconsideration within ten (10) business days following receipt of the request. The Council will provide all parties with written notification of its determination regarding the request for reconsideration. N.J.A.C. 5:105-2.10(a) – (e).

In the matter before the Council, the Complainant filed the request for reconsideration of the Council's February 21, 2017 Administrative Complaint Disposition on March 9, 2017, ten (10) business days from the issuance of the Council's Order.

Applicable case law holds that:

“A party should not seek reconsideration merely based upon dissatisfaction with a decision.” D'Atria v. D'Atria, 242 N.J. Super. 392, 401 (Ch. Div. 1990). Rather, reconsideration is reserved for those cases where (1) the decision is based upon a “palpably incorrect or irrational basis;” or (2) it is obvious that the finder of fact did not consider, or failed to appreciate, the significance of probative, competent evidence. *E.g.*, Cummings v. Bahr, 295 N.J. Super. 374, 384 (App. Div. 1996). The moving party must show that the court acted in an arbitrary, capricious or unreasonable manner. D'Atria, . . . 242 N.J. Super. at 401. “Although it is an overstatement to say that a decision is not arbitrary, capricious, or unreasonable whenever a court can review the reasons stated for the decision without a loud guffaw or involuntary gasp, it is not much of an overstatement.” Ibid.

In The Matter Of The Petition Of Comcast Cablevision Of S. Jersey, Inc. For A Renewal Certificate Of Approval To Continue To Construct, Operate And Maintain A Cable Tel. Sys. In The City Of Atl. City, Cnty. Of Atl., State Of N.J., 2003 N.J. PUC LEXIS 438, 5-6 (N.J. PUC 2003).

In the instant matter, the Complainant's request for reconsideration addressed a multitude of allegations levied against the Bernardsville Police Department. The Complainant submitted a number of e-mails, pictures, various documents, and other dialogue regarding the allegations. However, the GRC has no jurisdiction to address those allegations under OPRA. N.J.S.A. 47:1A-7(b). Moreover, the Complainant failed to submit any competent evidence to refute that the e-mail she sent to the Custodian's Counsel on November 29, 2015, was invalid under OPRA.

As the moving party, the Complainant was required to establish either of the necessary criteria set forth above: either 1) the Council's decision is based upon a "palpably incorrect or irrational basis;" or 2) it is obvious that the Council did not consider the significance of probative, competent evidence. *See Cummings*, 295 N.J. Super. at 384. The Complainant failed to establish that the complaint should be reconsidered based on new evidence, extraordinary

circumstances, fraud, or illegality. The Complainant has also failed to show that the Council acted arbitrarily, capriciously, or unreasonably. *See D'Atria*, 242 N.J. Super. at 401. Specifically, the Complainant failed to submit any competent evidence to refute that the e-mail she sent to the Custodian's Counsel on November 29, 2015, was invalid under OPRA. Thus, the Complainant's request for reconsideration should be denied. *Cummings*, 295 N.J. Super. at 384; *D'Atria*, 242 N.J. Super. at 401; *Comcast*, 2003 N.J. PUC at 5-6.

### **Conclusions and Recommendations**

The Executive Director respectfully recommends the Council find that the Complainant has failed to establish in her request for reconsideration of the Council's February 21, 2017 Administrative Case Disposition that either 1) the Council's decision is based upon a "palpably incorrect or irrational basis;" or 2) it is obvious that the Council did not consider the significance of probative, competent evidence. The Complainant failed to establish that the complaint should be reconsidered based on new evidence, extraordinary circumstances, fraud, or illegality. The Complainant has also failed to show that the Council acted arbitrarily, capriciously or unreasonably. Specifically, the Complainant failed to submit any competent evidence to refute that the e-mail she sent to the Custodian's Counsel on November 29, 2015 was invalid under OPRA. Thus, the Complainant's request for reconsideration should be denied. *Cummings v. Bahr*, 295 N.J. Super. 374 (App. Div. 1996); *D'Atria v. D'Atria*, 242 N.J. Super. 392 (Ch. Div. 1990); *In The Matter Of The Petition Of Comcast Cablevision Of S. Jersey, Inc. For A Renewal Certificate Of Approval To Continue To Construct, Operate And Maintain A Cable Tel. Sys. In The City Of Atl. City, Cnty. Of Atl., State Of N.J.*, 2003 N.J. PUC LEXIS 438, 5-6 (N.J. PUC 2003).

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

April 18, 2017



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

**Annette L. Steinhardt**  
**Complainant**

**GRC Complaint No. 2015-415**

**v.**

**Bernardsville Police Department (Somerset)**  
**Custodial Agency**

**Custodian of Record:** Chief Kevin J. Valentine  
**Request Received by Custodian:** N/A  
**GRC Complaint Received:** November 20, 2015

**Complaint Disposition:**

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

**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**

<sup>1</sup> 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.