



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

PHILIP D. MURPHY  
Governor

LT. GOVERNOR SHEILA Y. OLIVER  
Commissioner

**FINAL DECISION**

**September 29, 2020 Government Records Council Meeting**

Rotimi Owoh, Esq. (o/b/o O.O.)  
Complainant

Complaint No. 2018-62

v.

Township of Plainsboro (Middlesex)  
Custodian of Record

At the September 29, 2020 public meeting, the Government Records Council (“Council”) considered the September 22, 2020 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 has borne her burden of proof that she lawfully denied access to the Complainant’s OPRA request. Specifically, the Custodian certified in the Statement of Information, and the record reflects, that no responsive records exist. N.J.S.A. 47:1A-6; see Pusterhofer v. N.J. Dep’t of Educ., GRC Complaint No. 2005-49 (July 2005).
2. OPRA does not require the Custodian to allow inspection of the requested metadata directly on two (2) of the Township’s computers. Specifically, OPRA does not require the Custodian to compromise the security of their computer systems in order to respond to the subject OPRA request. N.J.S.A. 47:1A-1.1. Based on this, the Custodian’s denial to permit the Complainant to access the two (2) computers did not result in a violation of OPRA. N.J.S.A. 47:1A-6.
3. The Complainant has not achieved the desired result because the complaint did not bring about a change (voluntary or otherwise) in the custodian’s conduct. Teeters v. DYFS, 387 N.J. Super. 423 (App. Div. 2006). Additionally, no factual causal nexus exists between the Complainant’s filing of a Denial of Access Complaint and the relief ultimately achieved. Mason v. City of Hoboken and City Clerk of the City of Hoboken, 196 N.J. 51 (2008). Specifically, the Complainant failed to achieve the relief sought in his Denial of Access Complaint because no records exist. Therefore, the Complainant is not a prevailing party entitled to an award of a reasonable attorney’s fee. See N.J.S.A. 47:1A-6, Teeters, 387 N.J. Super. 432, and Mason, 196 N.J. 51.

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 29<sup>th</sup> Day of September 2020

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: October 1, 2020**

**STATE OF NEW JERSEY  
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director  
September 29, 2020 Council Meeting**

**Rotimi Owoh, Esq. (On Behalf of O.O.)<sup>1</sup>  
Complainant**

**GRC Complaint No. 2018-62**

v.

**Township of Plainsboro (Middlesex)<sup>2</sup>  
Custodial Agency**

**Records Relevant to Complaint:** On-site inspection of and a chance to copy:

1. Metadata of time(s) and date(s) relating to electronic redactions performed by Ms. Grau on her computer resulting in charges of \$116.00 and \$105.04. This includes file(s) that Ms. Grau created and the times and dates that she performed those tasks.
2. Metadata, and not actual computer files or records, of time(s) and date(s) relating to electronic redactions performed by Ms. Grau on Information Technology Specialist Kathy Lamkin's computer resulting in charges of \$116.00 and \$105.04. This includes file(s) that Ms. Grau created and the times and dates that she performed those tasks.<sup>3</sup>

**Custodian of Record:** Carol Torres  
**Request Received by Custodian:** March 7, 2018  
**Response Made by Custodian:** March 19, 2018  
**GRC Complaint Received:** April 10, 2018

**Background**<sup>4</sup>

**Request and Response:**

On March 7, 2018, the Complainant submitted an Open Public Records Act ("OPRA") request to the Custodian seeking the above-mentioned records. On March 19, 2018, Custodian's Counsel responded in writing on behalf of the Custodian attaching a legal certification from Ms. Lamkin. Counsel denied the Complainant's OPRA request because no records existed. Lamkin Cert. ¶ 3, 6, 9. Counsel noted that Ms. Lamkin interpreted the Complainant's OPRA request to seek an "event log." Lamkin Cert. ¶ 7. Counsel stated that Ms. Grau only printed on her computer; thus, no metadata existed. Lamkin Cert. ¶ 3. Counsel stated that Ms. Grau made the redactions in

---

<sup>1</sup> The Complainant represents O.O.

<sup>2</sup> Represented by George M. Morris, Esq., of Parker McCay, P.A. (Mount Laurel, NJ).

<sup>3</sup> The Complainant requested additional records that are not at issue in this complaint.

<sup>4</sup> 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.

Rotimi Owoh, Esq. (On Behalf of O.O.) v. Township of Plainsboro (Middlesex), 2018-62 – Findings and Recommendations of the Executive Director

question on Ms. Lamkin's computer on October 10, 2017; however, the logs regularly overwrite and only went back to December 7, 2017. Lamkin Cert. ¶ 5-6. Counsel further noted that Ms. Lamkin contacted the Township of Plainsboro's ("Township") computer vendor of the last eleven (11) years, Premier Technology Solutions, LLC, who confirmed that no responsive metadata existed. Lamkin Cert. ¶ 8-9.

#### Denial of Access Complaint:

On April 10, 2018, the Complainant filed a Denial of Access Complaint with the Government Records Council ("GRC"). The Complainant asserted that the Custodian unlawfully denied him access to on-site inspection of the requested metadata. The Complainant argued that metadata is a public record under OPRA. Paff v. Twp. of Galloway, 229 N.J. 340 (2017). The Complainant further argued that he was attaching an April 6, 2018 letter from Tino Kyprianou of Axiana, LLC., that refutes Ms. Lamkin's legal certification, to prove that Ms. Lamkin misinterpreted the term "metadata" as "event logs." Kyprianou Letter.

#### Statement of Information:

On April 24, 2018, the Custodian filed a Statement of Information ("SOI"). The Custodian certified that she received the Complainant's OPRA request on March 7, 2018. The Custodian certified that her search included utilizing Ms. Lamkin and the Premier Technology Solutions to determine whether records existed. The Custodian certified that Counsel responded in writing on her behalf on March 19, 2018 stating that no records existed and attaching Ms. Lamkin's legal certification.

The Custodian stated that the subject OPRA request was the result of multiple prior OPRA requests stemming from the Complainant son's arrest in May 2016. The Custodian stated that the Complainant submitted approximately twenty (20) OPRA requests thereafter, with several resulting in Superior Court actions. The Custodian averred the one of those requests and subsequent court actions related to a request for e-mails and the Township's assessment of a special service charge for redactions. The Custodian noted that the court upheld the charge; however, the Township elected to follow the Complainant's requested method of redaction (electronically through Adobe Pro) although it was not required to do so. The Custodian averred that months later, the Complainant submitted the subject OPRA request, for which Ms. Lamkin determined that no responsive metadata existed. The Custodian noted that Counsel responded on her behalf because of ongoing litigation.

The Custodian certified that no responsive metadata existed and there are no retention requirements for such in the State. The Custodian further argued that there is no case law providing guidance on whether a requestor should be allowed to access a physical agency computer. The Custodian contended that notwithstanding this lack of guidance, it is inconceivable that OPRA would support allowing a requestor to "rummage through other municipal files if a custodian certified that no paper documents existed." The Custodian contended that Ms. Lamkin's certification properly satisfies OPRA and Paff v. N.J. Dep't of Labor, 392 N.J. Super. 334 (App. Div. 2007) and the Township's effort "were more than reasonable and confirmed by its own outside vendor to ensure that no responsive documents existed."

Additional Submissions:

On April 28, 2018, the Complainant submitted a letter brief refuting the SOI. The Complainant initially contended that the Custodian seemed to imply that he was submitting unwarranted OPRA requests. The Complainant noted that he has prevailed in every court action and has been awarded almost \$18,000 in prevailing party attorney's fees. The Complainant also noted that it was the court that ordered the Township to electronically redact the e-mails.

The Complainant next argued that Ms. Lamkin's legal certification should be "taken with a grain of salt" given the Township's history of erroneously certifying that no records existed. The Complainant pointed to a specific court action where the Township certified that certain records did not exist, only to later disclose said records. The Complainant argued that it would thus be in error for the GRC to dismiss this complaint due solely to Ms. Lamkin's certification.

The Complainant further contended that he had a right to inspect and copy the requested metadata because it is a "government record" subject to access under OPRA. Paff, 392 N.J. Super. 334. The Complainant argued that contrary to the Custodian's assertions, accessing metadata is not the same as inspecting actual electronic documents. The Complainant asserted that per Mr. Kyprianou's "Metadata" report dated May 2, 2012, accessing metadata does not result in access to the actual paper file. The Complainant thus contended that inspecting metadata is in no way comparable to "rummaging through" agency files.

The Complainant finally contended that Mr. Kyprianou's letter amounts to a material fact dispute because it is in direct conflict with Ms. Lamkin's certification. The Complainant further contended that Mr. Kyprianou's report indicates that Ms. Lamkin was looking in the wrong place and that his experts would be able to extract the responsive metadata "using proper technology."

On May 7, 2018, Custodian's Counsel submitted a reply to the Complainant's April 28, 2018 letter brief. Counsel noted that the Complainant failed to acknowledge that he previously sought unrelated metadata and that the Supreme Court ruled that metadata was disclosable if it existed. Counsel noted that the Township complied in that instance because the metadata existed but cannot comply here because it cannot produce documents that do not exist. Counsel further argued that the Complainant ignored that the Township relied on an outside computer consultant to confirm that no metadata existed.

Counsel also reiterated the Township's SOI position that OPRA does not allow on-site inspection of a physical computer. Counsel asserted that the Township would never allow an "unknown entity" to breach the Township's network. Counsel stated that this is especially true given the certification that no metadata existed.

On May 12, 2018, the Complainant submitted a reply brief arguing that he has submitted a letter and report prepared by a "computer forensic expert." The Complainant argued that the Township not similarly submitted such a report from "their so-called 'outside computer consultant.'" The Complainant thus argued that the Township's failure to counter his expert's

opinion with their own resulted in a technological issue and it would be inappropriate to dismiss this complaint.<sup>5</sup>

## Analysis

### 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.

The Council has previously found that, where a custodian certified that no responsive records exist, no unlawful denial of access occurred. See Pusterhofer v. N.J. Dep’t of Educ., GRC Complaint No. 2005-49 (July 2005).

Initially, the GRC notes that a metadata issue previously arose in Owoh, Esq. (O.B.O. O.R.) v. West Windsor-Plainsboro Reg’l Sch. Dist. (Mercer), GRC Complaint No. 2012-91 (January 2016), Owoh, Esq. (O.B.O. Delores Nicole Simmons) v. West Windsor-Plainsboro Reg’l Sch. Dist. (Mercer), GRC Complaint No. 2012-130 (January 2016), and Owoh, Esq. (O.B.O. O.R.) v. West Windsor-Plainsboro Reg’l Sch. Dist. (Mercer), GRC Complaint No. 2012-167 (January 2016). In those complaints, a threshold issue was the existence of metadata from an “SASI” system. The custodian claimed that because the “SASI” was a system, no such “native file form” metadata existed. The complainant disagreed and provided an expert report dated May 2, 2012 to refute that the custodian could not locate and disclose metadata. The Council noted that the disclosure of metadata, coupled with the technological question of accessing same from an “SASI” system, was a matter of first impression. Given the submission of the parties in both cases, the Council believed that there existed contested facts warranting referral to the Office of Administrative Law (“OAL”). However, the parties settled, and the complainant withdrew both complaints before the OAL could render a decision on that highly technological issue.

Thereafter, the New Jersey Supreme Court determined that an agency’s electronically stored information is a “government record” under OPRA, unless otherwise exempt; thus, it required disclosure of an e-mail log comprised of basic e-mail information. Paff, 392 N.J. Super. at 353. Thus, any question as to the disclosability of metadata in existence at the time of an OPRA request is no longer in controversy. Thus, the crux of the instant complaint remains whether the responsive metadata existed and should be disclosed.

Here, the Complainant argued that the Custodian unlawfully denied him access to inspect (and potentially copy) metadata associated with redactions made by Ms. Grau under the pretext that no records existed. The Complainant argued that contrary to Ms. Lamkin’s legal certification attached to the response, Mr. Kyprianou’s letter proved that the requested metadata could be

---

<sup>5</sup> On May 21, 2011, Custodian’s Counsel submitted a letter advising that the Township did not believe any further submissions were necessary. Counsel requested that the GRC dismiss this complaint based on a review of all evidence currently in the record.

Rotimi Owoh, Esq. (On Behalf of O.O.) v. Township of Plainsboro (Middlesex), 2018-62 – Findings and Recommendations of the Executive Director

retrieved. In the SOI, the Custodian maintained the Township's position that no responsive metadata existed. Regarding OPRA request item No. 1, the Custodian certified that Ms. Grau only printed on her computer, and thus no metadata existed. See Lamkin Cert. ¶ 3. The Custodian further certified that the Township was unable to extract metadata from Ms. Lamkin's computer because the event log only went back to December 2017. Lamkin Cert. ¶ 5-6.

Following the SOI, the parties filed multiple letter briefs. The Complainant argued that in addition to Mr. Kyprianou's letter, he also had a report from May 2, 2012 (the same submitted in Owoh, Esq., GRC 2012-91, 2012-130, and 2012-167) that contradicted the Township's position. The Complainant contended that the Township failed to provide an expert report to counter those he submitted. The Complainant also contended that the GRC should not accept the Township's certifications because it previously submitted one to the courts that was erroneous; records did exist, and the Township disclosed them pursuant to a court order. Conversely, Custodian's Counsel argued that the Township could not disclose records that did not exist.

Upon review of the evidence of record submitted by the parties here, the GRC is persuaded that the Custodian lawfully denied access to the subject OPRA request on the basis that no responsive metadata exists. The GRC notes that it is not necessary to refer this complaint to the OAL, as was done in Owoh, Esq., GRC 2012-91, 2012-130, and 2012-167. This is first because the advanced technological issue of the "SASI" system is not present here. Further, and unlike those complaints, the Custodian here provided a legal certification from Ms. Lamkin describing in detail her efforts to locate the responsive metadata. Mr. Kyprianou's letter and 2012 report surmise that metadata could be extracted "thru appropriate software" does not consider the Township's specific technological capabilities or systems and does not effectively refute Ms. Lamkin's certification. Further, Mr. Kyprianou's letter and report purport that the Township would need to procure specialized software to extract this data; OPRA does not require public agencies to engage in such an action in order to fulfill an OPRA request. The GRC also notes that the validity of legal certifications submitted in other complaints either in Superior Court or before the GRC is not dispositive here.

Accordingly, the Custodian has borne her burden of proof that she lawfully denied access to the Complainant's OPRA request. Specifically, the Custodian certified in the SOI, and the record reflects, that no responsive records exist. N.J.S.A. 47:1A-6; see Pusterhofer, GRC 2005-49.

### **Inspection of a Physical Government Computer**

OPRA provides that "government records shall be readily accessible for inspection, copying, or examination by the citizens of this State . . . unless exempt from such access." N.J.S.A. 47:1A-1. To this end, OPRA provides that "[a] government record shall not include . . . administrative or technical information regarding computer hardware, software and networks which, if disclosed, would jeopardize computer security." N.J.S.A. 47:1A-1.1.

In this complaint, the Complainant argued that he had a right under OPRA to inspect two (2) Township computers to locate the metadata sought. The Custodian and Counsel maintained that OPRA does not support that a public agency is required to allow a requestor to inspect a physical computer, which would lead to them "rummage[ing] through other municipal files if a

custodian certified that no paper documents existed.” The Complainant disagreed, arguing that he OPRA gave him the right to inspect metadata on the source computers. Further, the Complainant contended that his expert would only be viewing metadata and not physical files on the Township’s computers.

While it is true that OPRA provides for inspection as an avenue of disclosure, a custodian must also consider how said option may impact the integrity of their agency’s records or systems. Such an issue has been raised before the Council in the past, where use of personal copiers or scanning of fragile records were at issue. See Hascup v. Waldwick Bd. of Educ., GRC Complaint No. 2005-192 (April 2007); Taylor v. Cherry Hill Bd. of Educ. (Camden), GRC Complaint No. 2008-258 (August 2009). In both instances, the Council found the custodians’ arguments to be compelling and found in favor of their prohibition to access records in manner sought by the complainant.

The matter currently before the Council provides a similar integrity issue, which carries significant implications on OPRA’s codified computer security exemption. Read together, OPRA’s inspection option and the computer security do not support a conclusion that the Custodian was in any way required to allow the Complainant to inspect the Township’s physical work computers for responsive records or electronic information. Requiring such an action presents an inherent significant risk to an agency’s internal computer systems. Those risks range from accidental or purposeful deletion or alteration of documents or underlying electronic information on the agency’s system to targeted cyber-attacks deployed through direct access. These risks are exactly those that OPRA’s computer security sought to avoid.

Further, whether the Complainant sought actual documents or underlying metadata is of no moment. Providing direct access to an agency’s physical work computer for any reason presents the same risks to an agency’s internal computer systems. It should be noted that Mr. Kyprianou’s letter suggesting using an application to extract metadata from the computers in question. To the extent true, it is obvious to conclude that allowing any requestor to run software on a public agency’s physical work computer would greatly increase the risk of compromise that OPRA sought to avoid. Based on this, the GRC concludes that OPRA did not require the Custodian to permit the Complainant direct access to a physical government computer.

Accordingly, OPRA does not require the Custodian to allow inspection of the requested metadata directly on two (2) of the Township’s computers. Specifically, OPRA does not require the Custodian to compromise the security of their computer systems in order to respond to the subject OPRA request. N.J.S.A. 47:1A-1.1. Based on this, the Custodian’s denial to permit the Complainant to access the two (2) computers did not result in a violation of OPRA. N.J.S.A. 47:1A-6.

### **Prevailing Party Attorney’s Fees**

OPRA provides that:

A person who is denied access to a government record by the custodian of the record, at the option of the requestor, may: institute a proceeding to challenge the



custodian's decision by filing an action in Superior Court . . .; or in lieu of filing an action in Superior Court, file a complaint with the Government Records Council . . . . A requestor who prevails in any proceeding shall be entitled to a reasonable attorney's fee.

[N.J.S.A. 47:1A-6.]

In Teeters v. DYFS, 387 N.J. Super. 423 (App. Div. 2006), the Court held that a complainant is a “prevailing party” if he achieves the desired result because the complaint brought about a change (voluntary or otherwise) in the custodian’s conduct. Id. at 432. Additionally, the Court held that attorney’s fees may be awarded when the requestor is successful (or partially successful) via a judicial decree, a quasi-judicial determination, or a settlement of the parties that indicates access was improperly denied and the requested records are disclosed. Id.

Additionally, the New Jersey Supreme Court has ruled on the issue of “prevailing party” attorney’s fees. In Mason v. City of Hoboken and City Clerk of the City of Hoboken, 196 N.J. 51 (2008), the Supreme Court discussed the catalyst theory, “which posits that a plaintiff is a ‘prevailing party’ if it achieves the desired result because the lawsuit brought about a voluntary change in the defendant’s conduct.” Mason, 196 N.J. at 71, (quoting Buckhannon Bd. & Care Home v. West Virginia Dep’t of Health & Human Res., 532 U.S. 598, 131 S. Ct. 1835, 149 L. Ed. 2d 855 (2001)). In Buckhannon, the Supreme Court stated that the phrase “prevailing party” is a legal term of art that refers to a “party in whose favor a judgment is rendered.” (quoting Black’s Law Dictionary 1145 (7<sup>th</sup> ed. 1999)). The Supreme Court rejected the catalyst theory as a basis for prevailing party attorney fees, in part because “[i]t allows an award where there is no judicially sanctioned change in the legal relationship of the parties . . .” Id. at 605, 121 S. Ct. at 1840, 149 L. Ed. 2d at 863. Further, the Supreme Court expressed concern that the catalyst theory would spawn extra litigation over attorney's fees. Id. at 609, 121 S. Ct. at 1843, 149 L. Ed. 2d at 866.

However, the Court noted in Mason, that Buckhannon is binding only when counsel fee provisions under federal statutes are at issue. 196 N.J. at 72, citing Teeters, 387 N.J. Super. at 429; see, e.g., Baer v. Klagholz, 346 N.J. Super. 79 (App. Div. 2001) (applying Buckhannon to the federal Individuals with Disabilities Education Act), certif. denied, 174 N.J. 193 (2002). “But in interpreting New Jersey law, we look to state law precedent and the specific state statute before us. When appropriate, we depart from the reasoning of federal cases that interpret comparable federal statutes.” 196 N.J. at 73 (citations omitted).

The Mason Court accepted the application of the catalyst theory within the context of OPRA, stating that:

OPRA itself contains broader language on attorney's fees than the former RTKL did. OPRA provides that “[a] requestor who prevails in any proceeding shall be entitled to a reasonable attorney's fee.” N.J.S.A. 47:1A-6. Under the prior RTKL, “[a] plaintiff in whose favor such an order [requiring access to public records] issues . . . may be awarded a reasonable attorney's fee not to exceed \$500.00.” N.J.S.A. 47:1A-4 (repealed 2002). The Legislature's revisions therefore: (1) mandate, rather than permit, an award of attorney's fees to a prevailing party; and

(2) eliminate the \$500 cap on fees and permit a reasonable, and quite likely higher, fee award. Those changes expand counsel fee awards under OPRA.

[Mason at 73-76.]

The Court in Mason, further held that:

[R]equestors are entitled to attorney’s fees under OPRA, absent a judgment or an enforceable consent decree, when they can demonstrate (1) “a factual causal nexus between plaintiff’s litigation and the relief ultimately achieved”; and (2) “that the relief ultimately secured by plaintiffs had a basis in law.” Singer v. State, 95 N.J. 487, 495, *cert denied* (1984).

[Id. at 76.]

In the matter before the Council, the Complainant filed the instant complaint requesting that the GRC require the Custodian to obtain and disclose the requested metadata to him. However, the evidence of record indicates that no responsive records exist. Pusterhofer, GRC 2005-49. Thus, the Complainant has not achieved the desired result and it not a prevailing party in this complaint.

Therefore, the Complainant has not achieved the desired result because the complaint did not bring about a change (voluntary or otherwise) in the custodian’s conduct. Teeters, 387 N.J. Super. 432. Additionally, no factual causal nexus exists between the Complainant’s filing of a Denial of Access Complaint and the relief ultimately achieved. Mason, 196 N.J. 51. Specifically, the Complainant failed to achieve the relief sought in his Denial of Access Complaint because no records exist. Therefore, the Complainant is not a prevailing party entitled to an award of a reasonable attorney’s fee. See N.J.S.A. 47:1A-6, Teeters, 387 N.J. Super. 432, and Mason, 196 N.J. 51.

### **Conclusions and Recommendations**

The Executive Director respectfully recommends the Council find that:

1. The Custodian has borne her burden of proof that she lawfully denied access to the Complainant’s OPRA request. Specifically, the Custodian certified in the Statement of Information, and the record reflects, that no responsive records exist. N.J.S.A. 47:1A-6; see Pusterhofer v. N.J. Dep’t of Educ., GRC Complaint No. 2005-49 (July 2005).
2. OPRA does not require the Custodian to allow inspection of the requested metadata directly on two (2) of the Township’s computers. Specifically, OPRA does not require the Custodian to compromise the security of their computer systems in order to respond to the subject OPRA request. N.J.S.A. 47:1A-1.1. Based on this, the Custodian’s denial to permit the Complainant to access the two (2) computers did not result in a violation of OPRA. N.J.S.A. 47:1A-6.

3. The Complainant has not achieved the desired result because the complaint did not bring about a change (voluntary or otherwise) in the custodian's conduct. Teeters v. DYFS, 387 N.J. Super. 423 (App. Div. 2006). Additionally, no factual causal nexus exists between the Complainant's filing of a Denial of Access Complaint and the relief ultimately achieved. Mason v. City of Hoboken and City Clerk of the City of Hoboken, 196 N.J. 51 (2008). Specifically, the Complainant failed to achieve the relief sought in his Denial of Access Complaint because no records exist. Therefore, the Complainant is not a prevailing party entitled to an award of a reasonable attorney's fee. See N.J.S.A. 47:1A-6, Teeters, 387 N.J. Super. 432, and Mason, 196 N.J. 51.

Prepared By: Frank F. Caruso  
Executive Director

September 22, 2020