



NEW JERSEY GOVERNMENT RECORDS COUNCIL
Administrative Complaint Disposition – Unripe Cause of Action

Anonymous
Complainant

GRC Complaint No. 2019-131

v.

Borough of North Haledon (Passaic)
Custodial Agency

Custodian of Record: Allan Susen
Request Received by Custodian: June 24, 2019
GRC Complaint Received: July 8, 2019

Complaint Disposition: The Complainant provided his OPRA request for multiple records to the Custodian on June 23, 2019 (a Sunday). On June 26, 2019, the Custodian responded extending the response time frame through July 15, 2019, or seven (7) additional business days. The Complainant verified his complaint on July 6, 2019, within the extended time frame to respond.¹ OPRA provides that the Custodian “. . . shall grant access to a government record or deny access to a government record as soon as possible, but not later than seven business days after receiving the request . . .” N.J.S.A. 47:1A-5(i). Further, the Council has determined that 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 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 dated October 31, 2007). (emphasis added.) See also Inzelbuch v. Lakewood Bd. of Educ. (Ocean), GRC Complaint No. 2012-323 (February 2013).

Here, this complaint is materially defective and shall be dismissed because the responsive records are not immediate access records and because the Complainant verified his complaint before the statutory time period *as extended* had expired.

Applicable OPRA Provision: “. . . [A] custodian of a government record shall grant access to a government record or deny access to a government record as soon as possible, but not later than seven business days after receiving the request . . .” N.J.S.A. 47:1A-5(i).

“A person who is denied access to a government record by the custodian of the record . . . may institute a proceeding to challenge the custodian’s decision by filing . . . a complaint with the Government Records Council . . .” N.J.S.A. 47:1A-6.

¹ In Ciccarone v. N.J. Dep’t of Treasury, GRC Complaint No. 2013-280 (Interim Order dated July 29, 2014), the GRC began deciding on the reasonableness of extensions. However, an analysis consistent with Ciccarone is not required here because the Custodian’s extension of time was reasonable and warranted on its face. Specifically, the Custodian sought seven (7) additional business days to locate and disclose seventy (70) individual records, some with redactions.



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: August 27, 2019

Prepared By: Frank F. Caruso
Executive Director

Date: August 20, 2019

Distribution Date: August 28, 2019