



State of New Jersey  
DEPARTMENT OF COMMUNITY AFFAIRS  
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PHILIP D. MURPHY  
Governor

LT. GOVERNOR SHEILA Y. OLIVER  
Commissioner

**FINAL DECISION**

**March 29, 2022 Government Records Council Meeting**

Mark Slawson  
Complainant

Complaint No. 2020-165

v.

Borough of Tenafly (Bergen)  
Custodian of Record

At the March 29, 2022 public meeting, the Government Records Council (“Council”) considered the March 22, 2022 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. Although the Custodian did not timely respond to the Complainant’s request seeking an extension of time to provide responsive records, he provided an explanation that would reasonably justify a delay in responding to the Complainant. Furthermore, the explanation justifies the need for the extensions of time to provide the Complainant with responsive records. As such, the due to the extenuating extreme circumstances, the Custodian’s failure to timely respond and seeking multiple extensions of time does not rise to the level of a “deemed” denial 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).
2. The Custodian did not lawfully deny access to the Complainant’s OPRA request. N.J.S.A. 47:1A-6. The evidence of record demonstrates that the Custodian provided the Complainant with responsive records on October 23, 2020. Additionally, the Custodian was not obligated to produce responsive records that were created after the date of submission. See Blau v. Union Cnty., GRC Complaint No. 2003-75 (January 2005), Paff v. Neptune Twp. Hous. Auth. (Monmouth), GRC Complaint No. 2010-307 (Interim Order dated April 25, 2012), and Delbury v. Greystone Park Psychiatric Hosp. (Morris), GRC Complaint No. 2013-240 (Interim Order dated April 29, 2014).
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, 432 (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, 71 (2008). Specifically, the Complainant failed to achieve the relief sought in his Denial of Access Complaint. 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. at 432, and Mason, 196 N.J. at 71.

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 March 2022

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: March 31, 2022**

**STATE OF NEW JERSEY  
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director  
March 29, 2022 Council Meeting**

**Mark Slawson<sup>1</sup>  
Complainant**

**GRC Complaint No. 2020-165**

v.

**Borough of Tenafly (Bergen)<sup>2</sup>  
Custodial Agency**

**Records Relevant to Complaint:** Copies via pick-up of: “All information, written and audio, from council meetings, emails (between council members, the mayor, and administration) in which my name, Mark Slawson, the Youth Center and Youth Center’s employees are mentioned as well and any discussion involving a merger with the Tenafly Recreation Department from January 1, 2018, until the date that I receive information from the Borough.”

**Custodian of Record:** Omar Stovall

**Request Received by Custodian:** March 24, 2020

**Response Made by Custodian:** June 18, 2020

**GRC Complaint Received:** August 31, 2020

**Background<sup>3</sup>**

**Request and Response:**

On March 19, 2020, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. On April 9, 2020, the Complainant e-mailed the Custodian seeking a status update. On May 6, 2020, the Complainant e-mailed the Custodian again seeking a status update of his OPRA request. That same day, the thirtieth (30<sup>th</sup>) business day after receipt of the OPRA request, the Custodian responded to the Complainant stating that 5,919 e-mails were located by the Borough of Tenafly (“Borough”)’s IT department. The Custodian stated that an extension of twenty-one (21) business days was warranted to conduct a search for documents responsive to his request.

On June 8, 2020, the Complainant submitted a third (3<sup>rd</sup>) request for a status update via e-mail. On June 18, 2020, the Custodian responded to the Complainant stating that an additional

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<sup>1</sup> Represented by Lisa Gladwell, Esq., (River Edge, NJ).

<sup>2</sup> Represented by Wendy Rubenstein, Esq., of Decotiis, FitzPatrick, Cole & Giblin, LLP (Paramus, NJ).

<sup>3</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.

twenty-one (21) business day extension was needed to search for responsive records. The Custodian added that the Complainant should receive a response on or before July 20, 2020.

On July 21, 2020, the Custodian e-mailed the Complainant again, seeking an additional twenty-one (21) business days to conduct a search for responsive records. The Custodian stated that a response would be provided on or before August 19, 2020.

Denial of Access Complaint:

On August 31, 2020, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant asserted that as of August 27, 2020, he has not received any of the requested records. The Complainant also noted that he had an active harassment complaint open with the Borough and that the requested records would provide additional support for his complaint.

Supplemental Response:

On August 28, 2020, the Custodian e-mailed the Complainant again, seeking an additional twenty-one (21) business days to conduct a search for responsive records. The Custodian further stated that a response would be provided on or before September 28, 2020. On September 28, 2020, the Custodian communicated another extension until October 28, 2020.

On October 23, 2020, the Custodian responded to the Complainant’s OPRA request via e-mail, providing a link to a cloud database containing responsive e-mails. On October 30, 2020, Complainant’s Counsel responded to the Custodian with some questions regarding the responsive records. Counsel first asked whether the production consisted of all responsive records, and if they covered the entire period from January 1, 2018 through October 23, 2020. Counsel then asked whether, “the investigation report from Ruderman & Roth, LLC (in response to Mr. Slawson’s complaint) [“investigation report”] included in the documents you provided as the report was completed and submitted to the [Borough] prior to October 23, 2020?”

On November 18, 2020, the Custodian responded to Complainant’s Counsel, stating that the responsive records were specific to the request and the date range was from January 1, 2018, to the date the Borough received the OPRA request, March 24, 2020. The Custodian also stated that the Complainant did not seek an investigation report in his OPRA request.

Statement of Information:<sup>4</sup>

On December 18, 2020, the Custodian filed a Statement of Information (“SOI”). The Custodian certified that he received the Complainant’s OPRA request on March 24, 2020. The Custodian certified that he responded in writing on June 18, 2020, seeking an extension of time to respond.

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<sup>4</sup> On September 29, 2020, the matter was transferred to mediation. On November 30, 2020, the matter was transferred back to the GRC for adjudication.

The Custodian asserted that the OPRA request was received at the beginning stages of the COVID-19 pandemic and ensuing statewide shutdown. The Custodian further asserted that N.J.S.A. 47:1A-5(i) was just amended around the same time the Borough received the instant request, which provided that the deadlines to respond, “shall not apply, provided, however, that a custodian of a government record shall make a reasonable effort, as the circumstances permit, to respond to a request for access to a government record within seven (7) business days or as soon as possible thereafter.” The Custodian asserted that in working with the IT department, the Borough located 5,919 responsive e-mails.

The Custodian asserted that during the time of the search, the Borough’s long-time attorney passed away due to COVID-19, e-mails were not reviewed until after an interim Borough Attorney was appointed. The Custodian contended that extensions were communicated to the Complainant to allow the interim Borough Attorney time to review the e-mails. The Custodian asserted that the records were provided to the Complainant and Complainant’s Counsel on October 23, 2020, via cloud link.

Additional Submissions:

On January 12, 2021, Complainant’s Counsel e-mailed the GRC. Counsel asserted that the that the Complainant has not received all responsive records from the Custodian and requested what the next steps were for the matter. On March 9, 2021, Counsel e-mailed the GRC stating that March 19, 2021, would be the one (1) year anniversary of the Complainant’s OPRA request. Counsel also stated that on January 7, 2021, the Complainant submitted another OPRA request for records that should have been part of the OPRA request at issue. Counsel stated that the Borough has taken two (2) extensions to respond to the new request, with the return date of March 22, 2021.

On March 12, 2021, the GRC responded to Counsel. The GRC stated that OPRA requires a custodian to respond to an OPRA request within seven (7) business days, either granting, denying, or seeking an extension of time. N.J.S.A. 47:1A-5(i). The GRC also provided Counsel with prevailing caselaw regarding extensions of time, as well as the recent amendments to OPRA regarding response times during a State of Emergency.

On March 9, 2022, the GRC requested additional information from the Custodian. Specifically, the GRC inquired as to whether the investigation report reference by the parties came into existence between January 1, 2018, and March 19, 2020, and if so whether the investigation report was attached to any of the responsive e-mails.

On March 15, 2022, the Custodian responded to the GRC in writing, providing a certification. Therein, the Custodian certified that no investigation report responsive to the request was created within the stated period. That same day, the GRC requested additional clarification, requesting whether the investigation report was created at any point before March 19, 2020. On March 16, 2022, the Custodian responded to the GRC, certifying that the investigation report was not created at any point before March 19, 2020.

## 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).<sup>5</sup> 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 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).

Additionally, shortly before the Custodian received in the instant request, the Legislature amended OPRA on March 20, 2020, in response to the global pandemic. P.L. 2020, c.10. Based on that amendment, N.J.S.A. 47:1A-5 now provides that:

During a period declared pursuant to the laws of this State as a state of emergency, public health emergency, or state of local disaster emergency, the deadlines by which to respond to a request for, or grant or deny access to, a government record under paragraph (1) of this subsection or subsection e. of this section shall not apply, provided, however, that the custodian of a government record shall make a reasonable effort, as the circumstances permit, to respond to a request for access to a government record within seven business days or as soon as possible thereafter."

[Id.]

"Paragraph (1) of this subsection" refers to N.J.S.A. 47:1A-5(i) and "subsection e. of this section" refers to N.J.S.A. 47:1A-5(e).

Furthermore, in Rivera v. City of Plainfield Police Dep't (Union), GRC Complaint No. 2009-317 (May 2011), the custodian responded in writing to the complainant's request on the fourth (4<sup>th</sup>) business day by seeking an extension of time to respond and providing an anticipated date by which the requested records would be made available. The complainant did not consent to the custodian's request for an extension of time. The Council stated that:

The Council has further described the requirements for a proper request for an extension of time. Specifically, in [Starkey v. NJ Dep't of Transp., GRC Complaint Nos. 2007-315 through 317 (February 2009)], the Custodian provided the Complainant with a written response to his OPRA request on the second (2<sup>nd</sup>) business day following receipt of said request in which the Custodian requested an extension of time to respond to said request and provided the Complainant with an

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<sup>5</sup> 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.

anticipated deadline date upon which the Custodian would respond to the request. The Council held that “because the Custodian requested an extension of time in writing within the statutorily mandated seven (7) business days and provided an anticipated deadline date of when the requested records would be made available, the Custodian properly requested said extension pursuant to N.J.S.A. 47:1A-5(g) [and] N.J.S.A. 47:1A-5(i)).

Further, in Criscione v. Town of Guttenberg (Hudson), GRC Complaint No. 2010-68 (November 2010), the Council held that the custodian did not unlawfully deny access to the requested records, stating in pertinent part that:

[B]ecause the Custodian provided a written response requesting an extension on the sixth (6<sup>th</sup>) business day following receipt of the Complainant’s OPRA request and providing a date certain on which to expect production of the records requested, and, notwithstanding the fact that the Complainant did not agree to the extension of time requested by the Custodian, the Custodian’s request for an extension of time [to a specific date] to respond to the Complainant’s OPRA request was made in writing within the statutorily mandated seven (7) business day response time.

Although extensions are rooted in well-settled case law, the Council need not find valid every request for an extension containing a clear deadline. In Ciccarone v. N.J. Dep’t of Treasury, GRC Complaint No. 2013-280 (Interim Order dated July 29, 2014), the Council found that the custodian could not lawfully exploit the process by repeatedly rolling over an extension once obtained. In reaching the conclusion that the continuous extensions resulted in a “deemed” denial of access, the Council looked to what is “reasonably necessary.”

In the instant matter, the Custodian certified that he received the OPRA request on March 24, 2020 but did not initially respond to the Complainant until May 6, 2020, stating that additional time was needed to process the request as the Borough’s IT department located 5,919 e-mails. The Custodian thereafter sought additional extensions through August 19, 2020. The Complainant then filed the instant complaint on August 28, 2020, asserting that the Custodian has not provided any responsive records. The Custodian sought three (3) additional extensions until October 23, 2020, when he provided the Complainant with approximately 500 e-mails dated from January 1, 2018, through March 24, 2020.

The GRC notes that in the issue of repeated extensions of time generally involves an analysis under Ciccarone. However, the March 20, 2020 amendment to N.J.S.A. 47:1A-5 and the following factual circumstances warrants a new review. Specifically, the Custodian certified that at or near the time he received the OPRA request, there was a statewide shutdown and Public Health Emergency declared pursuant to the laws of the State in response to the COVID-19 pandemic. The Custodian also certified that, “[t]he Borough . . . suffered an immeasurable loss when the long-time Borough Attorney passed away from complications from Covid-19.” The GRC further notes that Bergen County was hit particularly hard in the early weeks of the pandemic.<sup>6</sup> Moreover, the initial search for responsive records located 5,919 e-mails, which the Custodian

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<sup>6</sup> See [Department of Health | Communicable Disease Service | New Jersey COVID-19 Dashboard \(nj.gov\)](#)

certified needed review by the interim Borough Attorney. Lastly, the Complainant failed to submit any evidence to refute the Custodian's certification.

Therefore, although the Custodian did not timely respond to the Complainant's request seeking an extension of time to provide responsive records, he provided an explanation that would reasonably justify a delay in responding to the Complainant. Furthermore, the explanation justifies the need for the extensions of time to provide the Complainant with responsive records. As such, the due to the extenuating extreme circumstances, the Custodian's failure to timely respond and seeking multiple extensions of time does not rise to the level of a "deemed" denial 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.

Additionally, the GRC previously determined that a custodian was under no obligation to provide a record that had not been created at the time of an OPRA request. Blau v. Union Cnty., GRC Complaint No. 2003-75 (January 2005); Paff v. Neptune Twp. Hous. Auth. (Monmouth), GRC Complaint No. 2010-307 (Interim Order dated April 25, 2012); Delbury v. Greystone Park Psychiatric Hosp. (Morris), GRC Complaint No. 2013-240 (Interim Order dated April 29, 2014).

In the instant matter, the Custodian provided responsive records to the Complainant on October 23, 2020, and stated that the records spanned between January 1, 2018 through March 19, 2020, the date he received the request. Complainant's Counsel asserted that the responsive records should include those records created between the date of the request, March 19, 2020, and the date of production, October 23, 2020. Counsel added that the investigation report should have been included as well. However, in response to the GRC's request for additional information, the Custodian certified that the investigation report was not created prior to the date of the request.

While the Complainant's request spanned from January 1, 2018, "until the date that I receive the records from the Borough," the Council's prior decisions make clear that the Custodian's obligation was to provide records that existed at the time they received the OPRA request. The Custodian was under no obligation to provide additional records that came into existence thereafter. See Delbury, GRC 2013-240. If the Complainant wished to obtain additional records during the period comprising the extensions, he could have submitted a new OPRA request for same after receiving the Custodian's response, including the investigation report.

Accordingly, the Custodian did not lawfully deny access to the Complainant's OPRA request. N.J.S.A. 47:1A-6. The evidence of record demonstrates that the Custodian provided the Complainant with responsive records on October 23, 2020. Additionally, the Custodian was not obligated to produce responsive records that were created after the date of submission. See Blau, GRC 2003-75, Paff, GRC 2010-307, and Delbury, GRC 2013-240.



## 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 Appellate Division 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, 71 (2008), the 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”(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 held that the phrase “prevailing party” is a legal term of art that refers to a “party in whose favor a judgment is rendered.” Id. at 603 (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.

[196 N.J. 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, New Jersey v. Singer, 469 U.S. 832 (1984).

[Id. at 76.]

The Complainant filed the instant complaint initially asserting that the Custodian failed to respond to the March 19, 2020 OPRA request. The Custodian, after regularly extending the time even after the filing of this complaint, ultimately provided a response to the request on October 23, 2020. The Complainant thereafter asserted that the response failed to include records that were created after the date of the request. However, the evidence of record indicates that the Custodian’s extensions were reasonably justified and was under no obligation to provide records created after the date of the request. Thus, because the evidence of record indicates the Custodian’s clear intention to respond prior this complaint and no relief has been achieved, the Complainant has not achieved the desired result and is 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. at 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. at 71. Specifically, the Complainant failed to achieve the relief sought in his Denial of Access Complaint. 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. at 432, and Mason, 196 N.J. at 71.

### **Conclusions and Recommendations**

The Executive Director respectfully recommends the Council find that:

1. Although the Custodian did not timely respond to the Complainant’s request seeking an extension of time to provide responsive records, he provided an explanation that would reasonably justify a delay in responding to the Complainant. Furthermore, the

explanation justifies the need for the extensions of time to provide the Complainant with responsive records. As such, the due to the extenuating extreme circumstances, the Custodian's failure to timely respond and seeking multiple extensions of time does not rise to the level of a "deemed" denial 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).

2. The Custodian did not lawfully deny access to the Complainant's OPRA request. N.J.S.A. 47:1A-6. The evidence of record demonstrates that the Custodian provided the Complainant with responsive records on October 23, 2020. Additionally, the Custodian was not obligated to produce responsive records that were created after the date of submission. See Blau v. Union Cnty., GRC Complaint No. 2003-75 (January 2005), Paff v. v. Neptune Twp. Hous. Auth. (Monmouth), GRC Complaint No. 2010-307 (Interim Order dated April 25, 2012), and Delbury v. Greystone Park Psychiatric Hosp. (Morris), GRC Complaint No. 2013-240 (Interim Order dated April 29, 2014).
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, 432 (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, 71 (2008). Specifically, the Complainant failed to achieve the relief sought in his Denial of Access Complaint. 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. at 432, and Mason, 196 N.J. at 71.

Prepared By: Samuel A. Rosado  
Staff Attorney

March 22, 2022