



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

LT. GOVERNOR SHEILA Y. OLIVER  
Commissioner

**FINAL DECISION**

**November 9, 2022 Government Records Council Meeting**

Nancy Joyce Krrywda  
Complainant

Complaint No. 2021-225

v.

NJ Department of Community Affairs,  
Division of Housing and Community Resources  
Custodian of Record

At the November 9, 2022 public meeting, the Government Records Council (“Council”) considered the October 27, 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 the Complainant’s request seeking access to her “[e]ntire file” is invalid because it was a blanket request that failed to identify the specific records sought. MAG Entm’t, LLC v. Div. of ABC, 375 N.J. Super. 534 (App. Div. 2005); Bent v. Stafford Police Dep’t, 381 N.J. Super. 30, 37 (App. Div. 2005); N.J. Builders Ass’n v. N.J. Council on Affordable Hous., 390 N.J. Super. 166, 171 (App. Div. 2007); Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009); Morgano v. Essex Cnty. Prosecutor’s Office, GRC Complaint No. 2007-156 (February 2008). Thus, the Custodian lawfully denied access to the Complainant’s request. N.J.S.A. 47:1A-6.

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 9<sup>th</sup> Day of November 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: November 15, 2022**



**STATE OF NEW JERSEY  
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director  
November 9, 2022 Council Meeting**

**Nancy Joyce Krzywda<sup>1</sup>  
Complainant**

**GRC Complaint No. 2021-225**

v.

**N.J. Department of Community Affairs,  
Division of Housing and Community Resources<sup>2</sup>  
Custodial Agency**

**Records Relevant to Complaint:** Copies of the Complainant's "[e]ntire file."

**Custodian of Record:** Robert A. Feher  
**Request Received by Custodian:** September 9, 2021  
**Response Made by Custodian:** September 15, 2021  
**GRC Complaint Received:** September 23, 2021

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

**Request and Response:**

On September 1, 2021, the Complainant submitted an Open Public Records Act ("OPRA") request to Field Office Supervisor Patricia Fricke seeking the above-mentioned records. On September 15, 2021, the Custodian responded in writing denying the subject OPRA request as invalid. MAG Entm't, LLC v. Div. of ABC, 375 N.J. Super. 534, 546 (App. Div. 2005); Bent v. Stafford Police Dep't, 381 N.J. Super. 30, 37 (App. Div. 2005); N.J. Builders Ass'n v. N.J. Council on Affordable Hous., 390 N.J. Super. 166, 180 (App. Div. 2007). See also Lagerkvist v. Office of the Governor, 443 N.J. Super. 534, 546 (App. Div. 2005).

**Denial of Access Complaint:**

On September 23, 2021, the Complainant filed a Denial of Access Complaint with the Government Records Council ("GRC"). The Complainant disagreed with the Custodian's denial but did not provide any additional arguments regarding her dispute.

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

<sup>2</sup> Represented by Deputy Attorney General ("DAG") Levi Klinger Christiansen. Previously represented by DAG Beau C. Wilson.

<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.

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

On June 24, 2021, the Custodian filed a Statement of Information (“SOI”) attaching a legal certification from Ms. Fricke. The Custodian certified that he received the Complainant’s OPRA request on September 9, 2021. The Custodian certified that he responded in writing on September 15, 2021 denying same as invalid.

The Custodian argued that he lawfully denied access to the subject request because OPRA does not “authorize a party to make a blanket request for every document . . .” Bent, 381 N.J. Super. at 37. The Custodian asserted that the request here is similar to one contemplated in Bent because it sought an entire file; the Bent court determined same was invalid.

The Custodian additionally argued that to the extent the subject request is deemed to be proper, the requested records were exempt from disclosure under OPRA. N.J.S.A. 47:1A-9; 5 U.S.C. § 552a(b); N.J.A.C. 5:3-2.2. The Custodian averred that the “Housing Choice Voucher” (“HCV”) program provides housing assistance to individuals through “public housing authorities;” the Division of Housing and Community Resources (“DHCR”) is designated as such an authority. The Custodian stated that DHCR collects extensive sensitive personal and income information. 24 U.S.C. § 5.230. The Custodian stated that federal law expressly prohibits the disclosure of program records “except pursuant to written request by, or with the prior written consent of, the individual to whom the record pertains.” 5 U.S.C. § 552(a). The Custodian also noted that with respect to these exceptions, the Complainant’s attorney<sup>5</sup> inspected her file and obtained copies of thirty-four (34) pages on October 1, 2021. See Fricke Cert. ¶ 6-7. The Custodian thus argued that this complaint could be dismissed because although any requested records were exempt from disclosure, the Complainant received them through her attorney and could not have been denied access to them. Bart v. City of Paterson Hous. Auth., 403 N.J. Super. 609, 619 (2008).

### Additional Submissions:

On June 27, 2022, the Complainant e-mailed the GRC stating that although her attorney obtained copies of record from her file, she has still not received them from DHCR.<sup>6</sup>

## Analysis

### Validity of Request

The New Jersey Appellate Division has held that:

While OPRA provides an alternative means of access to government documents

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<sup>4</sup> On October 12, 2021, this complaint was referred to mediation. On May 31, 2021, this complaint was referred back to the GRC for adjudication.

<sup>5</sup> The attorney represents the Complainant in a separate matter and has not entered her appearance in this complaint.

<sup>6</sup> The Complainant asserted that she was being discriminated against and that the matter should be forwarded “to the proper agency for prosecution.” The Complainant subsequently e-mailed the GRC seeking to obtain “consent forms” she sent to Ms. Fricke: the GRC advised that it had no document that could be construed as a “consent form” in its complaint file.

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not otherwise exempted from its reach, *it is not intended as a research tool litigants may use to force government officials to identify and siphon useful information. Rather, OPRA simply operates to make identifiable government records “readily accessible for inspection, copying, or examination.” N.J.S.A. 47:1A-1.*

[MAG, 375 N.J. Super. at 546 (emphasis added).]

The court reasoned that:

Most significantly, the request failed to identify with any specificity or particularity the governmental records sought. *MAG provided neither names nor any identifiers other than a broad generic description of a brand or type of case prosecuted by the agency in the past.* Such an open-ended demand required the Division's records custodian to manually search through all of the agency's files, analyze, compile and collate the information contained therein, and identify for MAG the cases relative to its selective enforcement defense in the OAL litigation. Further, once the cases were identified, the records custodian would then be required to evaluate, sort out, and determine the documents to be produced and those otherwise exempted.

[Id. at 549 (emphasis added).]

The court further held that “[u]nder OPRA, agencies are required to disclose only ‘identifiable’ government records not otherwise exempt . . . In short, OPRA does not countenance open-ended searches of an agency's files.” Id. (emphasis added). Bent, 381 N.J. Super. at 37;<sup>7</sup> N.J. Builders, 390 N.J. Super. at 180; Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009).

The validity of an OPRA request typically falls into three (3) categories. The first is a request that is overly broad (“any and all,” requests seeking “records” generically, *etc.*) and requires a custodian to conduct research. MAG, 375 N.J. Super. 534; Donato v. Twp. of Union, GRC Complaint No. 2005-182 (January 2007). The second is those requests seeking information or asking questions. See e.g. Rummel v. Cumberland Cnty. Bd. of Chosen Freeholders, GRC Complaint No. 2011-168 (December 2012). The final category is a request that is either not on an official OPRA request form or does not invoke OPRA. See e.g. Naples v. N.J. Motor Vehicle Comm’n, GRC Complaint No. 2008-97 (December 2008).

In Morgano v. Essex Cnty. Prosecutor’s Office, GRC Complaint No. 2007-156 (October 2008), the complainant filed an OPRA request for two entire prosecutor’s office files. The Council relied upon MAG, 375 N.J. Super. at 546; Bent, 381 N.J. Super. at 37; and Asarnow v. Dep’t of Labor, GRC Complaint No. 2006-24 (May 2006), in determining that the request was overbroad and of the nature of a blanket request for a class of various documents rather than a request for a specific government record. As such, the Council found that the custodian met her burden of proof in denying access to the responsive records.

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<sup>7</sup> Affirmed on appeal regarding Bent v. Stafford Police Department, GRC Case No. 2004-78 (October 2004). Nancy Joyce Krywda v. N.J. Department of Community Affairs, Division of Housing and Community Resources, 2021-225 – Findings and Recommendations of the Executive Director

In the instant complaint, the Complainant sought access to her “entire file.” The Custodian denied access to the request as invalid and maintained this position in the SOI. As in Morgano, GRC 2007-156, the Council has repeatedly determined that requests for entire files are invalid. See also Randazzo-Thompson v. City of Vineland (Cumberland), GRC Complaint No. 2010-76 (May 2011); Bragg v. N.J. Dep’t of Corr., GRC Complaint No. 2010-145 (March 2011); Bradley-Williams v. Atlantic Cnty. Jail (Atlantic), GRC Complaint No. 2011-232 (December 2012). The GRC is thus satisfied that this request was similarly invalid and that the Custodian lawfully denied access to it.

Accordingly, the Complainant’s request seeking access to her “[e]ntire file” is invalid because it was a blanket request that failed to identify the specific records sought. MAG, 375 N.J. Super. at 549; Bent, 381 N.J. Super. at 37; N.J. Builders Ass’n, 390 N.J. Super. at 180; Schuler, GRC 2007-151; Morgano, GRC 2007-156. Thus, the Custodian lawfully denied access to the Complainant’s request. N.J.S.A. 47:1A-6.

The GRC notes that because it has determined that the request was invalid, it does not reach any additional arguments raised by the Custodian in the SOI regarding the applicability of federal statute and State regulatory exemptions on potentially responsive records.

### **Conclusions and Recommendations**

The Executive Director respectfully recommends the Council find that the Complainant’s request seeking access to her “[e]ntire file” is invalid because it was a blanket request that failed to identify the specific records sought. MAG Entm’t, LLC v. Div. of ABC, 375 N.J. Super. 534 (App. Div. 2005); Bent v. Stafford Police Dep’t, 381 N.J. Super. 30, 37 (App. Div. 2005); N.J. Builders Ass’n v. N.J. Council on Affordable Hous., 390 N.J. Super. 166, 171 (App. Div. 2007); Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009); Morgano v. Essex Cnty. Prosecutor’s Office, GRC Complaint No. 2007-156 (February 2008). Thus, the Custodian lawfully denied access to the Complainant’s request. N.J.S.A. 47:1A-6.

Prepared By: Frank F. Caruso  
Executive Director

October 27, 2022