



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

**Peter Gartner**  
**Complainant**

**GRC Complaint No. 2021-316**

v.

**Borough of Middlesex (Middlesex)**  
**Custodial Agency**

**Custodian of Record:** Linda Chismar  
**Request Received by Custodian:** November 17, 2021  
**GRC Complaint Received:** November 30, 2021

**Complaint Disposition:** On November 17, 2021, the Custodian received the Complainant’s OPRA request seeking certain “communications.” On November 19, 2021, the Custodian requested clarification of the request. Later that same day, the Complainant provided the requested clarification. The Complainant verified his complaint on November 29, 2021, which is the fifth (5<sup>th</sup>) business day after the Custodian received the Complainant’s clarified request.<sup>1</sup> 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).

Here, this complaint is materially defective and shall be dismissed because the records are not immediate access records and because the Complainant verified his complaint before the statutory time period for the Custodian to respond had expired. See Smith v. Moorestown Twp., 2020 N.J. Super. Unpub. LEXIS 1108 (App. Div. June 10, 2020).

**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.

**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.**

<sup>1</sup> The GRC has held that once a Custodian receives clarification from a Complainant regarding a previously received request, the seven (7) business day response time restarts. See Mikle v. Burlington County Board of Taxation, GRC Complaint No. 2010-232 (January 2012).



**Effective Date of Disposition:** December 14, 2021

Prepared By: John E. Stewart  
Staff Attorney

Date: December 8, 2021

**Distribution Date: December 15, 2021**