



**NEW JERSEY GOVERNMENT RECORDS COUNCIL**  
**Administrative Complaint Disposition – Not A Valid OPRA Request**

**Debra Coyle**  
**Complainant**

**GRC Complaint No. 2022-20**

v.

**Town of Kearny (Hudson)**  
**Custodial Agency**

**Custodian of Record:** Pat Carpenter  
**Request Received by Custodian:** November 23, 2021  
**GRC Complaint Received:** January 27, 2022

**Complaint Disposition:** The Complainant submitted a request for the local emergency response plan via the municipality’s website portal for public records. The Complainant stated in the request “. . . this request is NOT being made under a New Jersey state law, including the Open Public Records Act (OPRA). I am making this request under Section 11044 of the federal Emergency Planning and Community Right to Know Act.” As such, the Complainant affirmatively stated that she was not making an OPRA request.

The Complainant submitted a written request that did not reference OPRA, and the Custodian did not respond. OPRA is invoked only when a requestor submits a valid OPRA request for “government records.” Thus, the request as written is invalid under OPRA, and this complaint shall be dismissed.<sup>1</sup>

**Applicable OPRA Provision:** “A person who is denied access to a government record by the custodian of the record, at the option of the requestor, may . . . in lieu of filing an action in Superior Court, file a complaint with the Government Records Council established pursuant to [OPRA].” N.J.S.A. 47:1A-6.

“The Government Records Council shall . . . receive, hear, review and adjudicate a complaint filed by any person concerning a denial of access to a government record by a records custodian . . .” N.J.S.A. 47:1A-7(b).

**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> In Renna v. Cnty. of Union, 407 N.J. Super. 230 (App. Div. 2009), the Appellate Division held that although requestors shall continue to use public agencies’ OPRA request forms for making requests, no custodian shall withhold such records if the written request is not presented on the official form. The written request shall include the requisite information prescribed in N.J.S.A. 47:1A-5(f). Id. Therefore, requestors may submit a request not on an official form as long as it sufficiently invokes OPRA.



**Effective Date of Disposition:** February 22, 2022

Prepared By: John E. Stewart  
Staff Attorney

Date: February 15, 2022

**Distribution Date: February 23, 2022**