



State of New Jersey

DEPARTMENT OF COMMUNITY AFFAIRS
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PHILIP D. MURPHY
Governor

TAHESHA L. WAY
Lieutenant Governor

JACQUELYN A. SUÁREZ
Commissioner

FINAL DECISION

March 25, 2025 Government Records Council Meeting

Daniel Melfi
Complainant

v.

Borough of Leonia (Bergen)
Custodian of Record

Complaint No. 2022-343, 2022-344
and 2022-345

At the March 25, 2025 public meeting, the Government Records Council (“Council”) considered the March 18, 2025 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 three (3) requests seeking “[a]ll e-mails sent and received by Mark Moeller,” “[a]ny and all correspondences, written or electronic between the Manager and Mark Moeller,” and “[a]ll correspondence electronic or written between the Mayor and the Manager” between “9-1-2021” and “1-15-2022” are invalid because they fail to include subject matter and/or content sought. See 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, 180 (App. Div. 2007); Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009); Elcavage v. West Milford Twp. (Passaic), GRC Complaint No. 2009-07 (April 2010); Armenti v. Robbinsville Bd. of Educ. (Mercer), GRC Complaint No. 2009-154 (Interim Order May 24, 2011); Verry v. Borough of South Bound Brook (Somerset), GRC Complaint No. 2009-124 (April 2010). Thus, the Custodian lawfully denied access to each of the subject requests. 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 25th Day of March 2025

John A. Alexy, 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 27, 2025

**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
March 25, 2025 Council Meeting**

**Daniel Melfi¹
Complainant**

**GRC Complaint Nos. 2022-343,
2022-344, and 2022-345**

v.

**Borough of Leonia (Bergen)²
Custodial Agency**

Records Relevant to Complaints:

OPRA Request No. 1:³ “All e-mails sent and received by Mark Moeller for 9-1-2021 to 1-15-2022.”

OPRA Request No. 2:⁴ “Any and all correspondences, written or electronic between the Manager and Mark Moeller form (sic) 9-1-2021 to 1-15-2022.”

OPRA Request No. 3:⁵ “All correspondence electronic or written between the Mayor and the Manager from 9-1-2021 and 1-15-2022.”

Custodian of Record: Trina Lindsey

Requests Received by Custodian: April 22, 2022

Responses Made by Custodian: May 3, 2022; June 6, 2022, May 31, 2022, and May 23, 2022

GRC Complaints Received: July 18, 2022

Background⁶

Requests and Responses:

On April 21, 2022, the Complainant submitted three (3) Open Public Records Act (“OPRA”) requests to the Custodian seeking the above-mentioned records. On May 3, 2022, the seventh (7th) business day after receipt of these OPRA requests, the Custodian responded in writing requesting an extension to respond to OPRA request No. 1 by June 7, 2022, OPRA request No. 2 by May 31, 2022, and OPRA request No. 3 by May 23, 2022.

¹ No legal representation listed on record.

² Represented by Bradley D. Tishman, Esq., of Cleary, Giacobbe, Alfieri, Jacobs LLC (Oakland, NJ).

³ This OPRA request is the subject of GRC Complaint No. 2022-343.

⁴ This OPRA request is the subject of GRC Complaint No. 2022-344.

⁵ This OPRA request is the subject of GRC Complaint No. 2022-345.

⁶ 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.

On May 23, May 31, and June 6, 2022, respectively, the Custodian responded in writing denying each OPRA request, citing Armenti v. Robbinsville Bd. of Educ. (Mercer), GRC Complaint No. 2009-154 (Interim Order May 24, 2011); Zahler v. Ocean Cnty. College, GRC Complaint No. 2013-266 (January 2016); Elcavage v. West Milford Twp., GRC Complaint No. 2009-07 (April 2010); MAG Entm't, LLC v. Div. of ABC, 375 N.J. Super. 534, 549 (App. Div. 2005); and Bent v. Stafford Police Dep't, 381 N.J. Super. 30, 37 (App. Div. 2005).

Denial of Access Complaints:

On July 18, 2022, the Complainant filed three (3) Denial of Access Complaints with the Government Records Council ("GRC"). The Complainant asserted that the Custodian responded in writing denying each OPRA request as overbroad because they did not specify content or subject matter of the e-mails requested.

Statements of Information:

On August 1, 2022, the Custodian filed three (3) Statements of Information ("SOI"). The Custodian certified that she received the Complainant's OPRA requests on April 22, 2022. The Custodian certified that she responded in writing on June 6, 2022, May 31, 2022, and May 23, 2022, respectively, denying each request as overbroad because they did not contain content and/or subject matter of the e-mails or communications sought per Elcavage GRC 2009-07 and Armenti GRC 2009-154.

The Custodian contended that she lawfully denied access to the OPRA requests for the reasons cited in her denial. The Custodian, citing Brown v. Essex Cnty. Coll., GRC Complaint No. 2017-227 (July 2020) and Goodwin v. Borough of Woodlynne (Camden), GRC Complaint No. 2020-173 (April 2022), asserted that due to the lack of any specified content, the Complainant's requests were invalid as overbroad and blanket requests that improperly purport to require her to conduct research to identify responsive records. The Custodian, citing MAG, 375 N.J. Super. at 549, argued that New Jersey Courts have consistently held that OPRA does not countenance open-ended searches of an agency's files. The Custodian, quoting Bent 381 N.J. Super. at 37, argued that a proper request under OPRA "must identify with reasonable clarity those documents that are desired, and a party cannot satisfy this requirement by simply requesting all of an agency's documents."

Analysis

Validity of Requests

The New Jersey Appellate Division has held that:

While OPRA provides an alternative means of access to government documents 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. at 549 (emphasis added). Bent, 381 N.J. Super. at 37;⁷ N.J. Builders Ass’n, 390 N.J. Super. at 180; Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009).

An invalid 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. at 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).

With respect to requests for e-mails and correspondence, the GRC established specific criteria deemed necessary under OPRA to request such records in Elcavage, GRC 2009-07. The Council determined that to be valid, such requests must contain (1) the content and/or subject of the email, (2) the specific date or range of dates during which the email(s) were transmitted, and (3) the identity of the sender and/or the recipient thereof. Id.; see also Sandoval v. N.J. State Parole Bd., GRC Complaint No. 2006-167 (Interim Order dated March 28, 2007). The Council has also applied the criteria set forth in Elcavage to other forms of correspondence, such as letters and text messages. See e.g. Armenti, GRC 2009-154; Alt v. City of Vineland (Cumberland), GRC Complaint No. 2013-205 (June 2014).

Further, the Council has previously determined that a request failing to contain all appropriate criteria set forth in Elcavage, GRC 2009-07, was invalid. For example, in Verry v.

⁷ Affirming Bent v. Stafford Police Dep’t, GRC Complaint No. 2004-78 (October 2004).

Borough of South Bound Brook (Somerset), GRC Complaint No. 2009-124 (April 2010), the complainant's OPRA request sought all e-mails to or from a particular e-mail account for a specific time period. The custodian's counsel responded advising the complainant that his OPRA request was invalid because it represented an open-ended search of the Borough's files. The Council held that the complainant's request was invalid under Elcavage, GRC 2009-07 because it did not include a subject or content. Id. at 7.

Here, all three (3) OPRA requests at issue seek "any and all" e-mails and/or correspondence involving Mark Moeller, the Mayor, and unspecified managers for the dates of "9-1-2021" through "1-15-2022." The Custodian initially denied the requests as invalid and contended in the SOI that each request did not specify subject matter or content in the e-mails and correspondence sought. When applying Elcavage, Armenti, and Verry, all three (3) requests are invalid because each failed to identify a subject matter or content. Therefore, the Custodian's search for responsive correspondence and e-mails would have constituted research that OPRA does not authorize. The GRC is thus satisfied that all three (3) of these requests are invalid, as they clearly omitted the required criteria provided for in precedential case law.

Accordingly, the Complainant's three (3) requests seeking "[a]ll e-mails sent and received by Mark Moeller," "[a]ny and all correspondences, written or electronic between the Manager and Mark Moeller," and "[a]ll correspondence electronic or written between the Mayor and the Manager" between "9-1-2021" and "1-15-2022" are invalid because they fail to include subject matter and/or content sought. See MAG, 375 N.J. Super. at 546; Bent, 381 N.J. Super. at 37, N.J. Builders Ass'n, 390 N.J. Super. at 180; Schuler, GRC 2007-151; Elcavage, GRC 2009-07; Armenti, GRC 2009-154; Verry, GRC 2009-124. Thus, the Custodian lawfully denied access to each of the subject requests. N.J.S.A. 47:1A-6.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that , the Complainant's three (3) requests seeking "[a]ll e-mails sent and received by Mark Moeller," "[a]ny and all correspondences, written or electronic between the Manager and Mark Moeller," and "[a]ll correspondence electronic or written between the Mayor and the Manager" between "9-1-2021" and "1-15-2022" are invalid because they fail to include subject matter and/or content sought. See 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, 180 (App. Div. 2007); Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009); Elcavage v. West Milford Twp. (Passaic), GRC Complaint No. 2009-07 (April 2010); Armenti v. Robbinsville Bd. of Educ. (Mercer), GRC Complaint No. 2009-154 (Interim Order May 24, 2011); Verry v. Borough of South Bound Brook (Somerset), GRC Complaint No. 2009-124 (April 2010). Thus, the Custodian lawfully denied access to each of the subject requests. N.J.S.A. 47:1A-6.

Prepared By: Maria M. Rossi
Staff Attorney

March 18, 2025