



State of New Jersey

DEPARTMENT OF COMMUNITY AFFAIRS
101 SOUTH BROAD STREET
PO Box 819
TRENTON, NJ 08625-0819

PHILIP D. MURPHY
Governor

TAHESHA L. WAY
Lieutenant Governor

JACQUELYN A. SUÁREZ
Commissioner

FINAL DECISION

February 18, 2025 Government Records Council Meeting

Steven A. Myers
Complainant

Complaint No. 2022-491

v.

Township of Dennis (Cape May)
Custodian of Record

At the February 18, 2025, public meeting, the Government Records Council (“Council”) considered the February 11, 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 Council find that the Complainant’s OPRA request seeking “any complaints against committeeman Matalucci or Turner in all documented form . . .” is invalid because it fails to identify a specific record and requires the Custodian to conduct research. See MAG Entm’t, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005); N.J. Builders Ass’n v. N.J. Council on Affordable Hous., 390 N.J. Super. 166, 180 (App. Div. 2007); Bent v. Stafford Twp. Police Dep’t, 381 N.J. Super. 30, 37 (App. Div. 2005); Lagerkvist v. Office of the Governor, 443 N.J. Super. 230, 236-37 (App. Div. 2015). Thus, the Custodian lawfully denied access to this 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 18th Day of February 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: February 20, 2025

**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
February 18, 2025 Council Meeting**

**Steven A. Myers¹
Complainant**

GRC Complaint No. 2022-491

v.

**Township of Dennis (Cape May)²
Custodial Agency**

Records Relevant to Complaint: Electronic copies via e-mail of “any complaints against committeeman Matalucci or Turner in all documented forms excluding verbal over the last 5 years or since appointment to office whichever is less.”

Custodian of Record: Jacqueline B. Justice

Request Received by Custodian: September 9, 2022

Response Made by Custodian: September 13, 2022

GRC Complaint Received: September 15, 2022

Background³

Request and Response:

On September 9, 2022, the Complainant submitted an OPRA request to the Custodian seeking the above-mentioned records. On September 13, 2022, the Custodian responded in writing denying the OPRA request as invalid. MAG Entm’t, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005); Bent v. Stafford Police Dep’t, 381 N.J. Super. 30, 37 (App. Div. 2005).

Denial of Access Complaint:

On September 15, 2022, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant stated that he previously submitted an OPRA request for similar records, which was denied on September 9, 2022. The Complainant stated that based on this denial, he composed a new OPRA request and submitted it to the Custodian later that day. The Complainant stated that the Custodian responded in writing on September 13, 2022, denying the request as invalid because it was overly broad.

¹ No legal representation listed on record.

² Represented by Frank Guaracini, III, Esq., of Blaney, Donohue & Weinberg, P.C. (Avalon, NJ).

³ 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.

The Complainant disputed the denial and argued that, because he identified a specific type of record, parties to the correspondence, dates, and subject matter, the Custodian was obligated to search the files to find the identifiable government records.

Statement of Information:⁴

On December 9, 2022, the Custodian filed a Statement of Information (“SOI”). The Custodian certified that she received the Complainant’s OPRA request on September 9, 2022. The Custodian certified that her search was “impossible to perform” given “the verbiage of the request . . . insomuch as the term ‘complaint’ was not defined by the Complainant” and specific documents were not identified for production. The Custodian certified that she reviewed meeting minutes to determine whether any public comments appeared that were potentially responsive to the request. The Custodian certified that she responded in writing on September 13, 2022 denying the request as overbroad. MAG, 375 N.J. Super. 534; Bent, 381 N.J. Super. 30.

The Custodian contended that she lawfully denied access to the subject OPRA request because it was vague and/or overbroad in that the Complainant did not request an identifiable record not exempt from production. MAG, 375 N.J. Super. 534; Bent, 381 N.J. Super.; N.J. Builders Ass’n v. N.J. Council on Affordable Hous., 390 N.J. Super. 166 (App. Div. 2007); and Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009).⁵

Analysis

Validity of Request

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*

⁴ On October 13, 2022, this complaint was referred to mediation. On November 3, 2022, this complaint was referred back to the GRC for adjudication.

⁵ Although the Complainant did not state a common law access claim in the Denial of Access Complaint, the Custodian also included a defense of their common law denial. However, the GRC will not address this issue as it has no authority over same. N.J.S.A. 47:1A-7(b); see also Rowan, Jr. v. Warren Hills Reg’l Sch. Dist. (Warren), GRC Complaint No. 2011-347 (January 2013).

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); see also Bent, 381 N.J. Super. at 37;⁶ N.J. Builders Ass’n, 390 N.J. Super. at 180; Schuler, GRC 2007-151.

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. 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).

Regarding generic requests for “records,” the request at issue in MAG sought “all documents or records evidencing that the ABC sought, obtained or ordered revocation of a liquor license for the charge of selling alcoholic beverages to an intoxicated person in which such person, after leaving the licensed premises, was involved in a fatal auto accident” and “all documents or records evidencing that the ABC sought, obtained or ordered suspension of a liquor license exceeding 45 days for charges of lewd or immoral activity.” Id. at 539-540. The court noted that plaintiffs failed to include additional identifiers such as a case name or docket number. Id.; see also Steinhauer-Kula v. Twp. of Downe (Cumberland), GRC Complaint No. 2010-198 (March 2012) (holding that the complainant’s request item No. 2 seeking “[p]roof of submission” was invalid); Edwards v. Hous. Auth. of Plainfield (Union), GRC Complaint No. 2008-183 *et seq.* (Final Decision dated April 25, 2012) (accepting the Administrative Law Judge’s finding that a newspaper article attached to a subject OPRA request that was related to the records sought did not cure the deficiencies present in the request).

In Lagerkvist v. Office of the Governor, 443 N.J. Super. 230, 236-237 (App. Div. 2015), the court’s rationale of what amounted to research supports the Council’s decision in Valdes. There, the court reasoned that the plaintiff’s request:

[W]ould have had to make a preliminary determination as to which travel records correlated to the governor and to his senior officials, past and present, over a span of years. The custodian would then have had to attempt to single out those which

⁶ Affirming Bent v. Stafford Police Dep’t, GRC Complaint No. 2004-78 (October 2004).

were third-party funded events. Next, he would have had to collect all documents corresponding to those events and search to ensure he had accumulated everything, including both paper and electronic correspondence. OPRA does not convert a custodian into a researcher.

[Id. at 237.]

More recently, in Carter v. N.J. Dep't of Cmty. Affairs, Div. of Local Gov't Serv., 2019 N.J. Super. Unpub. LEXIS 2510 (App. Div. Dec. 10, 2019)⁷, the complainant requested docketing records stemming from an appeal of an agency's final decision pertaining to a specific statute. The GRC found the request to be invalid, as it would cause the custodian to conduct research. On appeal, the court found that the request lacked a case name, party name, or docket number. The court also found that the records required the custodian "to search through thousands of cases to identify documents relevant to the request." Slip op. at *9-10. The court further found that the custodian would have to review each file to determine whether it was applicable to the specific issue identified by the complainant. The court therefore held that the request was invalid under OPRA.

In the instant matter, the Complainant's OPRA request sought "any complaints" in "all documented forms" against committeeman Matalucci or Turner over the last five (5) years or since appointment to office whichever is less. The Custodian responded in writing denying the request as invalid. This complaint ensued, wherein the Custodian disputed the denial arguing that it sought specific records and contained sufficient identifiers. In the SOI, the Custodian maintained that the request was invalid because the request for "complaints" did not specifically identify government records and required the Custodian to conduct research of "all documented forms."

Upon review, the GRC is persuaded that MAG and its progeny support that this request is invalid. Like the requests in Lagerkvist and Carter, this request necessitates the Custodian to conduct research of numerous types of records generally related to any "complaints" against two (2) individuals for a two-year period to merely identify the existence of potentially responsive records that may contain the requested information. The Custodian would then have to determine whether the content of those records rises to the level of a "complaint" of any type. Thus, this request requires the Custodian to act beyond what is required under OPRA.

Accordingly, the Complainant's OPRA request seeking "any complaints against committeeman Matalucci or Turner in all documented forms . . ." is invalid because it fails to identify a specific record and requires the Custodian to conduct research. 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; Lagerkvist, 443 N.J. Super. at 236-37. Thus, the Custodian lawfully denied access to this request. See N.J.S.A. 47:1A-6.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that the Complainant's OPRA request seeking "any complaints against committeeman Matalucci or Turner in all

⁷ Affirmed on appeal from Carter v. N.J. Dep't of Cmty. Affairs, GRC Complaint No. 2016-262 (August 2018).

documented form . . .” is invalid because it fails to identify a specific record and requires the Custodian to conduct research. See MAG Entm’t, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005); N.J. Builders Ass’n v. N.J. Council on Affordable Hous., 390 N.J. Super. 166, 180 (App. Div. 2007); Bent v. Stafford Twp. Police Dep’t, 381 N.J. Super. 30, 37 (App. Div. 2005); Lagerkvist v. Office of the Governor, 443 N.J. Super. 230, 236-37 (App. Div. 2015). Thus, the Custodian lawfully denied access to this request. N.J.S.A. 47:1A-6.

Prepared By: Maria M. Rossi
Staff Attorney

February 11, 2025