



State of New Jersey

DEPARTMENT OF COMMUNITY AFFAIRS
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MIKIE SHERRILL
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Lieutenant Governor

JACQUELYN A. SUÁREZ
Commissioner

FINAL DECISION

January 27, 2026 Government Records Council Meeting

Scott Madlinger
Complainant

Complaint No. 2022-525

v.

City of Jersey City (Hudson)
Custodian of Record

At the January 27, 2026, public meeting, the Government Records Council (“Council”) considered the January 20, 2026, 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:

1. The Custodian unlawfully denied access to the Complainant’s July 28, 2022 OPRA request seeking the records relevant to the complaint. N.J.S.A. 47:1A-6. Specifically, the Custodian asserted that the request would substantially disrupt agency operations and offered the Complainant a reasonable solution; to wit, providing either a key word or narrowing the time frame of the search. The Complainant opted for the latter solution and narrowed the time frame of the search by over six (6) weeks. Thereafter, although the Custodian assured the Complainant he was processing the request, he unlawfully denied him access. Thus, the Custodian shall disclose said records to the Complainant.
2. **The Custodian shall comply with conclusion No. 1 above within twenty (20) business days from receipt of the Council’s Final Decision. In the circumstance where the records ordered for disclosure are not provided to the Complainant, the Council’s Final Decision may be enforced in the Superior Court of New Jersey. N.J. Court Rules, R. 4:67-6; N.J.A.C. 5:105-2.9(c).**
3. The Complainant has achieved “the desired result because the complaint brought about a change (voluntary or otherwise) in the custodian’s conduct.” Teeters v. DYFS, 387 N.J. Super. 423 (App. Div. 2006). Additionally, a factual causal nexus exists between the Complainant’s filing of a Denial of Access Complaint and the relief ultimately achieved. Mason v. City of Hoboken and City Clerk of the City of Hoboken, 196 N.J. 51 (2008). Specifically, the Custodian asserted that the request would substantially disrupt agency operations and offered the Complainant a reasonable solution. The Complainant complied and narrowed the time frame of the search. Thereafter, although the Custodian assured the Complainant he was processing the request, he unlawfully denied him access. Therefore, the Complainant is a prevailing party entitled to an award of a reasonable attorney’s fee. See N.J.S.A. 47:1A-6, Teeters, 387 N.J. Super. 423, and

Mason, 196 N.J. at 51. Based on this determination, the parties shall confer in an effort to decide the amount of reasonable attorney's fees to be paid to Complainant within twenty (20) business days. The parties shall promptly notify the GRC in writing if a fee agreement is reached. If the parties cannot agree on the amount of attorney's fees, Complainant's Counsel shall submit a fee application to the Council in accordance with N.J.A.C. 5:105-2.13(c).

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 27th Day of January 2026

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 2, 2026

**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
January 27, 2026 Council Meeting**

**Scott Madlinger¹
Complainant**

GRC Complaint No. 2022-525

v.

**City of Jersey City (Hudson)²
Custodial Agency**

Records Relevant to Complaint: Copies via electronic transmission of “[a] log of sent and received emails for Amy DeGise from June 1, 2022 to July 28, 2022, which includes the sender name, recipient name(s), date and subject line.”

Custodian of Record: Sean Gallagher

Request Received by Custodian: July 28, 2022

Responses Made by Custodian: August 8, 2022, August 18, 2022, August 19, 2022, August 22, 2022, September 7, 2022, and September 26, 2022

GRC Complaint Received: September 26, 2022

Background³

Request and Responses:

On July 28, 2022, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. On August 8, 2022, the Custodian responded in writing to the Complainant’s request informing him that a two (2) week extension of time was needed. On August 18, 2022, the Custodian informed the Complainant that his request generated a log containing 1,435 entries, and each entry’s subject line and sender/recipient would need to be reviewed to determine if any information was exempt from disclosure. The Custodian informed the Complainant that responding to such a request would constitute an overly burdensome imposition upon the City of Jersey City (“City”) and asked the Complainant to “provide either (1) a unique key word or topic to enable the City to re-run the search and narrow the results, or (2) narrow the time frame of the search.” On that same date, the Complainant narrowed the start date of the request from June 1, 2022, to July 14, 2022. On August 19, 2022, the Custodian informed the Complainant that his request generated a log containing 522 entries which would still constitute an overly burdensome imposition upon the City. The Custodian asked the Complainant to provide a key word or topic.

¹ Represented by Walter M. Luers, Esq., of Cohn Lifland Pearlman Herrmann & Knopf, LLP (Saddle Brook, NJ).

² Represented by Jeremy Jacobsen, Esq. (City of Jersey City, 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.

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On August 22, 2022, the Custodian notified the Complainant that “the City is conducting its search and two additional weeks are needed for processing your request.” On September 7, 2022, the Custodian sent the Complainant an identical notification.⁴ On September 21, 2022, the Complainant asked the Custodian for the status of his request. On September 26, 2022, the Custodian replied, informing him that on August 19, 2022, he was asked to clarify the request; however, he failed to respond.

Denial of Access Complaint:

On September 26, 2022, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant stated that he submitted an OPRA request on July 28, 2022, and that the Custodian responded on August 8, 2022, informing him that a two (2) week extension of time was needed to process the request.

The Complainant stated that, on August 18, 2022, the Custodian informed him that “1435 emails needed to be reviewed to see if (sic) exempt from disclosure. Overly burdensome. Asked me to either provide a key word or narrow time frame.” (Emphasis in original.) The Complainant stated that he replied on that same date revising the time period of the request to July 14, 2022 – July 28, 2022. The Complainant stated that on August 19, 2022, the Custodian informed him the narrowed request still produced 522 e-mails and remained overly burdensome. The Complainant stated that the Custodian asked for a key word. The Complainant stated that the Custodian subsequently responded seeking a two (2) week extension of time on August 22, 2022, and again on September 7, 2022. The Complainant stated that, on September 21, 2022, he asked the Custodian for the status of his request, and the Custodian replied, “they are waiting for clarification (8/19).”

Statement of Information:

On October 21, 2022, the Custodian filed a Statement of Information (“SOI”). The Custodian certified that he received the Complainant’s OPRA request on July 28, 2022, and initially responded to the request on August 8, 2022. The Custodian certified that the record responsive to the request is “creation of a single file detailing sender, recipient, date and subject for approx. 522 emails.”

The Custodian certified that three points, taken together, form the basis of the City’s denial of the Complainant’s request: (1) a custodian is authorized to withhold information under the attorney-client privilege and deliberative process privilege exemptions; (2) there is a strong privacy interest in communications between public officials and members of the public and a custodian has a duty to safeguard information for which there is a reasonable expectation of privacy (citations omitted); (3) N.J.S.A. 47:1A-5(g) shields custodians from being compelled to fulfill, as written, requests that would substantially disrupt agency operations.

⁴ The GRC notes that the Custodian’s August 22, 2022 and September 7, 2022 responses seeking extensions of time listed the time frame of the request as June 1, 2022 to July 28, 2022, rather than the narrowed period of July 14, 2022 to July 28, 2022.

Regarding point 1, the Custodian certified that the subject headings of the requested records “could potentially be exempt from release as attorney client privileged or deliberative process privilege (sic) pursuant to N.J.S.A. 47:1A-1.1[.] This would not necessarily be readily apparent to Office of the City Clerk or the Law Department from the headings alone, without review of the individual emails and/or further context and background provided by the Councilwoman.”

Concerning point 2, the Custodian certified that the person for whose e-mails are sought, Amy DeGise, is a councilperson. The Custodian certified that since the e-mail log seeks both sender and recipient names, their disclosure would tend to reveal both the identity of the person communicating with a public official, as well as the purpose of the communications. The Custodian certified that, as such, the request implicates strong privacy interests for both parties. The Custodian further certified that a City attorney, in consultation with the Councilwoman and Deputy Clerk, would need to conduct a detailed review of the subject matter of the requested email communications and redact information that implicates privacy concerns.

With respect to point 3, the Custodian, citing N.J.S.A. 47:1A-5(g), certified that the process of review, consultation, analysis and redaction is disruptive to agency operations and that the Complainant has declined a reasonable solution. The Custodian certified that, “[i]n consultation among its IT department, Law Department and records custodian, the City determined that . . . approximately five-hundred and twenty-two (522) responsive e-mails . . . would be implicated.” The Custodian cited N.J. Builders Ass’n v. N.J. Council on Affordable Hous., 390 N.J. Super. 166, 181 (App. Div. 2007), as stating that requests “demand[ing] assessment and preliminary inquiry” by records custodians are “sufficient to give rise to an inference that compliance will ‘disrupt agency operations.’” The Custodian further certified that, “[o]nce a substantial disruption of agency operations has been established, a custodian’s offer of a ‘reasonable solution’ is sufficient to meet its burden of proof and establish as ‘authorized by law’ the custodian’s subsequent denial. Id. at 170, 183.”

The Custodian certified that at least some of the responsive records would likely be subject to the attorney client privilege, deliberative process privilege, or a reasonable expectation of privacy. The Custodian certified that to gain the context necessary to determine which records may implicate those concerns, a review of the individual e-mails by the Office of the City Clerk, the City Law Department and Councilwoman DeGise would be necessary, requiring approximately 26.1 hours of time. The Custodian certified that “[t]his is the basis for the City’s denial of access.” The Custodian certified that to mitigate the substantial disruption, he offered the Complainant a reasonable solution, which was to narrow the scope of the request by providing a topic or keyword; however, the Complainant refused to accept the solution. As such, the Custodian certified that he has met his burden of showing that the denial is justified under N.J.S.A. 47:1A-5(g).

Analysis

Unlawful Denial of Access

OPRA provides that government records made, maintained, kept on file, or received by a public agency in the course of its official business are subject to public access unless otherwise exempt. N.J.S.A. 47:1A-1.1. A custodian must release all records responsive to an OPRA request

“with certain exceptions.” N.J.S.A. 47:1A-1. Additionally, OPRA places the burden on a custodian to prove that a denial of access to records is lawful pursuant to N.J.S.A. 47:1A-6.

OPRA further provides that:

If a request for access to a government record would substantially disrupt agency operations, the custodian may deny access to the record after attempting to reach a reasonable solution with the requestor that accommodates the interests of the requestor and the agency.

[N.J.S.A. 47:1A-5(g).]

In Rivera v. City of Plainfield Police Dep’t (Union), GRC Complaint No. 2009-317 (Interim Order May 24, 2011), the complainant requested ten (10) request items seeking numerous records. The custodian requested a two (2) week extension of time to address the request; however, the complainant rejected the custodian’s request for an extension. After the complaint was filed, the custodian argued, *inter alia*, that the request was voluminous and would substantially disrupt the operations of the agency per N.J.S.A. 47:1A-5(g), and that although he attempted to reach a reasonable accommodation with the complainant through an extension of time, the complainant refused to agree to an extension. The Council concluded that the evidence of record supported neither a substantial disruption of agency operations nor an attempt by the custodian to reach a reasonable solution with the complainant that would accommodate the interests of the complainant and the agency as required by N.J.S.A. 47:1A-5(g).

Conversely, in Davis v. N.J. Dep’t of Health and Senior Serv., GRC Consolidated Complaint Nos. 2012-94 and 2012-142 (May 2013), the complainant’s OPRA requests encompassed 49 request items for correspondence, letters, memoranda, minutes, summaries, recommendations, research materials, lists, general documents, correspondence, schedules, outlines, opinions and regulations. The custodian, acknowledging that fulfilling the request would cause a substantial disruption of agency operations, attempted to reasonably accommodate the complainant’s voluminous requests by calculating and offering the complainant a special service charge for 90 hours of time. The complainant refused to pay the special service charge and filed the complaints. The Council determined that although the custodian expressed concerns that the requests would substantially disrupt agency operations, she tried but failed to reach a reasonable accommodation with the complainant; therefore, she did not unlawfully deny access.

In the instant complaint, the Custodian initially responded to the request by seeking a two (2) week extension of time. Then, within the extended period, the Custodian informed the Complainant that his request generated a voluminous number of responsive records and was overly burdensome. The Custodian asked the Complainant to *either* provide a key word *or* narrow the time frame of the search. The Complainant opted to narrow the time frame, and adjusted the start date from June 1, 2022 to July 14, 2022. On August 19, 2022, the Custodian informed the Complainant that the request generated a log containing 522 entries, which was still overly burdensome, and asked the Complainant to provide a key word or topic. The evidence of record reveals that the Complainant did not reply. Thereafter, the Custodian took two (2) additional extensions of time totaling four (4) weeks; each extension of time assured the Complainant that the City was processing his request. Then, on September 26, 2022, in reply to the Complainant’s

September 21, 2022 query for the status of his request, the Custodian informed him that he failed to reply to the Custodian's August 19, 2022 "clarification email." This complaint followed.

Here, the Custodian certified that the request would substantially disrupt agency operations per N.J.S.A. 47:1A-5(g); however, the Custodian's only attempt to reach a reasonable solution with the Complainant was to request that the Complainant either provide a key word or narrow the time frame of the search. The Complainant chose the latter, narrowing the time frame of the search by over six (6) weeks.

There is no dispute between the parties that the requested records are "government records" subject to disclosure in their base form per Paff v. Galloway Twp., 229 N.J. 340 (2017). However, the New Jersey Supreme Court did open a pathway for agencies to charge "a service-fee charge when the request for a record requires 'a substantial amount of manipulation or programming of information technology'" and the potential for redactions. Id. at 354 (citing N.J.S.A. 47:1A-5(d)); 358 (citing N.J.S.A. 47:1A-5(a)).

Here, although the Custodian asserted that the responsive records need to be reviewed and potentially redacted under the attorney client privilege, deliberative process privilege, and/or OPRA's privacy provision, he never offered the Complainant an opportunity to pay a special service charge as a means of reaching a reasonable accommodation. The only means of accommodation offered by the Custodian was accepted by the Complainant, and thereafter, the Custodian notified the Complainant twice that the City was processing his request but then failed to do so.

Accordingly, the Custodian unlawfully denied access to the Complainant's July 28, 2022 OPRA request seeking the records relevant to the complaint. N.J.S.A. 47:1A-6. Specifically, the Custodian asserted that the request would substantially disrupt agency operations and offered the Complainant a reasonable solution; to wit, providing either a key word or narrowing the time frame of the search. The Complainant opted for the latter solution and narrowed the time frame of the search by over six (6) weeks. Thereafter, although the Custodian assured the Complainant he was processing the request, he unlawfully denied him access. Thus, the Custodian shall disclose said records to the Complainant.

Prevailing Party Attorney's Fees

OPRA provides that:

A person who is denied access to a government record by the custodian of the record, at the option of the requestor, may: institute a proceeding to challenge the custodian's decision by filing an action in Superior Court . . .; or in lieu of filing an action in Superior Court, file a complaint with the Government Records Council A requestor who prevails in any proceeding shall be entitled to a reasonable attorney's fee.

[N.J.S.A. 47:1A-6.]

In Teeters v. DYFS, 387 N.J. Super. 423 (App. Div. 2006), the Appellate Division held that a complainant is a “prevailing party” if he achieves the desired result because the complaint brought about a change (voluntary or otherwise) in the custodian’s conduct. Id. at 432. Additionally, the court held that attorney’s fees may be awarded when the requestor is successful (or partially successful) via a judicial decree, a quasi-judicial determination, or a settlement of the parties that indicates access was improperly denied and the requested records are disclosed. Id.

Additionally, the New Jersey Supreme Court has ruled on the issue of “prevailing party” attorney’s fees. In Mason v. City of Hoboken and City Clerk of the City of Hoboken, 196 N.J. 51, 71 (2008), the Court discussed the catalyst theory, “which posits that a plaintiff is a ‘prevailing party’ if it achieves the desired result because the lawsuit brought about a voluntary change in the defendant’s conduct” (quoting Buckhannon Bd. & Care Home v. West Virginia Dep’t of Health & Human Res., 532 U.S. 598, 131 S. Ct. 1835, 149 L. Ed. 2d 855 (2001)). In Buckhannon, the Supreme Court held that the phrase “prevailing party” is a legal term of art that refers to a “party in whose favor a judgment is rendered.” Id. at 603 (quoting Black’s Law Dictionary 1145 (7th ed. 1999)). The Supreme Court rejected the catalyst theory as a basis for prevailing party attorney fees, in part because “[i]t allows an award where there is no judicially sanctioned change in the legal relationship of the parties.” Id. at 605, 121 S. Ct. at 1840, 149 L. Ed. 2d at 863. Further, the Supreme Court expressed concern that the catalyst theory would spawn extra litigation over attorney’s fees. Id. at 609, 121 S. Ct. at 1843, 149 L. Ed. 2d at 866.

However, the Court noted in Mason that Buckhannon is binding only when counsel fee provisions under federal statutes are at issue. 196 N.J. at 72, citing Teeters, 387 N.J. Super. at 429; see, e.g., Baer v. Klagholz, 346 N.J. Super. 79 (App. Div. 2001) (applying Buckhannon to the federal Individuals with Disabilities Education Act), certif. denied, 174 N.J. 193 (2002). “But in interpreting New Jersey law, we look to state law precedent and the specific state statute before us. When appropriate, we depart from the reasoning of federal cases that interpret comparable federal statutes.” 196 N.J. at 73 (citations omitted).

The Mason Court accepted the application of the catalyst theory within the context of OPRA, stating that:

OPRA itself contains broader language on attorney’s fees than the former RTKL did. OPRA provides that “[a] requestor who prevails in any proceeding shall be entitled to a reasonable attorney’s fee.” N.J.S.A. 47:1A-6. Under the prior RTKL, “[a] plaintiff in whose favor such an order [requiring access to public records] issues . . . may be awarded a reasonable attorney’s fee not to exceed \$500.00.” N.J.S.A. 47:1A-4 (repealed 2002). The Legislature’s revisions therefore: (1) mandate, rather than permit, an award of attorney’s fees to a prevailing party; and (2) eliminate the \$500 cap on fees and permit a reasonable, and quite likely higher, fee award. Those changes expand counsel fee awards under OPRA. [196 N.J. at 73-76.]

The Court further held that:

[R]equestors are entitled to attorney’s fees under OPRA, absent a judgment or an enforceable consent decree, when they can demonstrate (1) “a factual causal nexus

between plaintiff's litigation and the relief ultimately achieved"; and (2) "that the relief ultimately secured by plaintiffs had a basis in law." Singer v. State, 95 N.J. 487, 495, cert. denied, New Jersey v. Singer, 469 U.S. 832 (1984).

[Id. at 76.]

Here, the Complainant filed an OPRA request on July 28, 2022, seeking a log of sent and received e-mails for Amy DeGise from June 1, 2022 to July 28, 2022. On August 8, 2022, the Custodian responded, requesting a two (2) week extension of time. On August 18, 2022, the Custodian informed the Complainant that his request generated a log containing 1,435 entries, and each entry needed review to determine if any information was exempt from disclosure. The Custodian informed the Complainant that responding to such a request would be overly burdensome and asked the Complainant to provide either a unique key word or narrow the time frame of the search. Although on August 19, 2022, the Custodian asserted that the request was still overly burdensome, he took two (2) additional extensions of time totaling four (4) weeks; each extension of time assured the Complainant that the City was processing his request. When the Complainant later sought the status of his request, the Custodian informed him that he failed to reply to the Custodian's August 19, 2022 "clarification email" The Complainant then filed the instant complaint alleging the Custodian unlawfully denied him access to the requested records.

In determining whether the Complainant is a prevailing party entitled to attorney's fees, the Council held that the Custodian unlawfully denied access to the requested e-mail log and ordered disclosure. Thus, pursuant to the Council's decision, a causal nexus exists between this complaint and the change in the Custodian's conduct. See Mason, 196 N.J. at 76. Accordingly, the Complainant is a prevailing party entitled to attorney's fees.

Therefore, the Complainant has achieved "the desired result because the complaint brought about a change (voluntary or otherwise) in the custodian's conduct." Teeters, 387 N.J. Super. at 432. Additionally, a factual causal nexus exists between the Complainant's filing of a Denial of Access Complaint and the relief ultimately achieved. Mason, 196 N.J. at 76. Specifically, the Custodian asserted that the request would substantially disrupt agency operations and offered the Complainant a reasonable solution. The Complainant complied and narrowed the time frame of the search. Thereafter, although the Custodian assured the Complainant he was processing the request, he unlawfully denied him access. Therefore, the Complainant is a prevailing party entitled to an award of a reasonable attorney's fee. See N.J.S.A. 47:1A-6, Teeters, 387 N.J. Super. at 432, and Mason, 196 N.J. at 76. **Based on this determination, the parties shall confer in an effort to decide the amount of reasonable attorney's fees to be paid to Complainant within twenty (20) business days. The parties shall promptly notify the GRC in writing if a fee agreement is reached. If the parties cannot agree on the amount of attorney's fees, Complainant's Counsel shall submit a fee application to the Council in accordance with N.J.A.C. 5:105-2.13(c).**

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that:

1. The Custodian unlawfully denied access to the Complainant's July 28, 2022 OPRA request seeking the records relevant to the complaint. N.J.S.A. 47:1A-6. Specifically,

the Custodian asserted that the request would substantially disrupt agency operations and offered the Complainant a reasonable solution; to wit, providing either a key word or narrowing the time frame of the search. The Complainant opted for the latter solution and narrowed the time frame of the search by over six (6) weeks. Thereafter, although the Custodian assured the Complainant he was processing the request, he unlawfully denied him access. Thus, the Custodian shall disclose said records to the Complainant.

2. **The Custodian shall comply with conclusion No. 1 above within twenty (20) business days from receipt of the Council’s Final Decision. In the circumstance where the records ordered for disclosure are not provided to the Complainant, the Council’s Final Decision may be enforced in the Superior Court of New Jersey. N.J. Court Rules, R. 4:67-6; N.J.A.C. 5:105-2.9(c).**

3. The Complainant has achieved “the desired result because the complaint brought about a change (voluntary or otherwise) in the custodian’s conduct.” Teeters v. DYFS, 387 N.J. Super. 423 (App. Div. 2006). Additionally, a factual causal nexus exists between the Complainant’s filing of a Denial of Access Complaint and the relief ultimately achieved. Mason v. City of Hoboken and City Clerk of the City of Hoboken, 196 N.J. 51 (2008). Specifically, the Custodian asserted that the request would substantially disrupt agency operations and offered the Complainant a reasonable solution. The Complainant complied and narrowed the time frame of the search. Thereafter, although the Custodian assured the Complainant he was processing the request, he unlawfully denied him access. Therefore, the Complainant is a prevailing party entitled to an award of a reasonable attorney’s fee. See N.J.S.A. 47:1A-6, Teeters, 387 N.J. Super. 423, and Mason, 196 N.J. at 51. **Based on this determination, the parties shall confer in an effort to decide the amount of reasonable attorney’s fees to be paid to Complainant within twenty (20) business days. The parties shall promptly notify the GRC in writing if a fee agreement is reached. If the parties cannot agree on the amount of attorney’s fees, Complainant’s Counsel shall submit a fee application to the Council in accordance with N.J.A.C. 5:105-2.13(c).**

Prepared By: John E. Stewart

January 20, 2026⁵

⁵ This complaint was prepared for adjudication at the Council’s January 28, 2025 meeting, but could not be adjudicated due to lack of quorum.