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DEPARTMENT OF COMMUNITY AFFAIRS
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JACQUELYN A. SUÁREZ
Commissioner

FINAL DECISION

December 9, 2025 Government Records Council Meeting

Thomas and Nancy Ferrante
Complainant

Complaint No. 2023-128

v.

Borough of Paramus (Bergen)
Custodian of Record

At the December 9, 2025, public meeting, the Government Records Council (“Council”) considered the December 2, 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:

1. A portion of Complainants’ request item No. 1 and item No. 2 are invalid because they failed to identify a specific record and would require the Custodian to perform research and make subjective determinations. MAG Entm’t, LLC v. Div. of ABC, 375 N.J. Super. 534, 546 (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); Lagerkvist v. Office of the Governor, 443 N.J. Super. 230, 236-237 (App. Div. 2015); Schuler v. Borough of Bloomsbury (Hunterdon), GRC Complaint No. 2007-151 (February 2009). Thus, the Custodian lawfully denied access to these request items. N.J.S.A. 47:1A-6.
2. The portion of Complainants’ OPRA request item No. 1 seeking correspondence and e-mails over a defined date range for a specific subject is a valid OPRA request pursuant to Elcavage v. West Milford Twp. (Passaic), GRC Complaint No. 2009-07 (April 2010). Thus, the Custodian denial of this portion of OPRA request item No. 1 was unlawful. N.J.S.A. 47:1A-6. The Custodian shall either: 1) locate and disclose to the Complainant the records responsive to this portion of OPRA request item No. 1, with redactions and legal basis therefor where applicable, 2) identify any records exempt from disclosure in their totality including the legal basis for the denial; or 3) certify if no records responsive to this portion of the item exist.
3. **The Custodian shall comply with conclusion No. 2 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).**

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 9th Day of December 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: December 11, 2025

**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
December 9, 2025 Council Meeting**

**Thomas and Nancy Ferrante¹
Complainant**

GRC Complaint No. 2023-128

v.

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

Records Relevant to Complaint: Paper copies via pickup of:

1. “All documents (including correspondence, emails, legal notices, filings) received from the New Jersey Department of Community Affairs [“(DCA)”] by any Paramus official re: the DCA’s Investigation 13189353 into the construction project at [a specific address in] Paramus NJ (owned by [two individuals]), from April 1, 2022 to March 30, 2023.”
2. “Any documents relating to the [DCA] investigation into the actions of the Paramus Construction official, Michael O’Connell, pertaining to the construction project at [a specific address] (owned by [two individuals]).”³

Custodian of Record: Annmarie Krusznis

Request Received by Custodian: March 27, 2023⁴

Response Made by Custodian: April 5, 2023

GRC Complaint Received: June 6, 2023

Background⁵

Request and Response:

On Sunday, March 26, 2023, Complainants submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. On April 5, 2023, Custodian’s Counsel responded in writing on behalf of the Custodian, denying access to the OPRA request. Counsel stated that Complainants’ OPRA request was improper as it would require the Custodian to make a subjective determination of whether documents are “related” to the subject DCA investigation. Counsel further stated that Complainants’ request did not satisfy the

¹ No legal representation listed on record.

² Represented by Brian T. Giblin, Esq. of Giblin & Gannaio, LLC (Oradell, NJ).

³ Complainants sought additional records that are not at issue in this complaint.

⁴ On February 15, 2023, Complainants submitted an OPRA request, which the Custodian denied in writing as overly broad. The subject OPRA request ensued.

⁵ 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.

established criteria set forth in Elcavage v. West Milford Twp. (Passaic), GRC Complaint No. 2009-07 (April 2010). Counsel provided Complainants with the requisite criteria to establish a valid OPRA request and asked them to revise the request to conform with the Elcavage criteria. Counsel stated he was available to discuss the matter with Complainants.

On April 8, 2023, Complainants emailed the Custodian and Counsel asserting that OPRA request item No. 1 conformed with the criteria established in MAG Entm't, LLC v. Div. of ABC, 375 N.J. Super. 534 (App. Div. 2005), and asked Counsel to explain “what is unclear.” Complainants stated that the item included the subject matter, which distinguished it from the request in Elcavage. Complainants asserted that the Custodian did not conduct a proper search required by OPRA and “may simply ask Mr. O’Connell, Borough of Paramus (“Borough”) Counsel and the Borough Administrator for responsive documents.” The Complainants stated that their request related to a Superior Court action naming the Borough as a defendant, and as such responsive records should be readily available.⁶

On April 12, 2023, Complainants e-mailed the Custodian stating that they were not sure how to clarify the pending OPRA request to make it any clearer. Complainants noted that they would attempt to provide further clarification as needed by the Custodian.

Denial of Access Complaint:

On June 6, 2023, Complainants filed a Denial of Access Complaint with the Government Records Council (“GRC”). Complainants stated that, after receiving Custodian Counsel’s April 5, 2023 written denial, they engaged in multiple communications with the Custodian and Counsel in an effort to clarify the subject OPRA request and resolve any outstanding issues. Complainants stated that the Custodian did not respond to those communications.

Complainants asserted that the Custodian unlawfully denied access to the subject OPRA request. Complainants contended that the request was “legally proper” and multiple attempts to resolve the denial were ignored. Complainants asserted that the DCA informed them that their investigation ended and that there was no longer an investigation in progress.

Statement of Information:

On June 29, 2023, the Custodian filed a Statement of Information (“SOI”). The Custodian certified that she received Complainants’ OPRA request on March 27, 2023. The Custodian certified that Counsel responded in writing on April 5, 2023, denying the request as invalid.

The Custodian contended that Complainants’ request was improper under OPRA. The Custodian contended that OPRA request item No. 1 was improper because it was an “overbroad request for information which would require the Records Custodian to conduct research in order to determine what records, if any, were responsive.” The Custodian contended that OPRA does

⁶ The Complainants stated that the Custodian did not address their common law request. However, the GRC notes that it has no authority over the common law right of access. N.J.S.A. 47:1A-7(b); see Rowan, Jr. v. Warren Hills Reg’l Sch. Dist. (Warren), GRC Complaint No. 2011-347 (January 2013). Thus, this issue is not properly before the GRC.

not require a custodian to entertain open-ended searches of agency files. MAG, 375 N.J. Super. at 549.

The Custodian further argued that OPRA request item No. 2 was improper because it would “require the custodian to research available documents to determine if they would be responsive” to the subject request. The Custodian contended that this request item was virtually identical to the request the Council determined was invalid in Elcavage. Counsel argued that custodians are not required to do so in accordance with the holdings of MAG, 375 N.J. Super. 534; Bent v. Stafford Police Dep’t., 381 N.J. Super. 30, 37 (App. Div. 2005); Elcavage, GRC 2007-09; and Asarnow v. Dep’t of Labor, GRC Complaint No. 2006-24 (May 2006).

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 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. (emphasis added). See also Bent, 381 N.J. Super. 30;⁷ N.J. Builders Ass’n v. N.J. Council on Affordable Hous., 390 N.J. Super. 166, 180 (App. Div.

⁷ Affirmed on appeal regarding Bent v. Stafford Police Dep’t., GRC Case No. 2004-78 (October 2004).

2007); Schuler v. Borough of Bloomsbury (Hunterdon), GRC Complaint No. 2007-151 (February 2009).

Invalid OPRA requests typically fall into three (3) categories. The first are requests that are overly broad (i.e., “any and all,” requests seeking “records” generically, *etc.*) and require a custodian to conduct research. MAG, 375 N.J. Super. 534; Donato v. Twp. of Union, GRC Complaint No. 2005-182 (January 2007). The second are 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 are requests that are either not on an official OPRA request form or do 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 539-40. The court noted that plaintiffs failed to include additional identifiers such as a case name or docket number. See Steinhauer-Kula v. Twp. of Downe (Cumberland), GRC Complaint No. 2010-198 (March 2012) (holding that 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) at 12-13 (accepting 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 deficiencies present in the request).

In Lagerkvist v. Office of the Governor, 443 N.J. Super. 230, 236-37 (App. Div. 2015), the court held that plaintiff’s request was invalid because it required research. In reaching this conclusion, the court reasoned that:

The custodian in this case would 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 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.]

Regarding requests for communications—including e-mails, text messages, and written correspondence—the GRC in Elcavage, GRC 2009-07, established the following criteria deemed necessary under OPRA to request them: (1) the content and/or subject of the e-mail; (2) the specific date or range of dates during which the e-mail(s) were transmitted; and (3) the identity of the sender and/or the recipient thereof. See also Sandoval v. NJ State Parole Bd., GRC Complaint No. 2006-167 (Interim Order March 28, 2007). The Council has also applied the criteria set forth in

Elcavage to other forms of correspondence, such as letters. See Armenti v. Robbinsville Bd. of Educ. (Mercer), GRC Complaint No. 2009-154 (Interim Order May 24, 2011).

Here, Complainants' request item No. 1 sought "[a]ll documents (including correspondence, emails, legal notices, filings) received from the [DCA] by any Paramus official re: the DCA's Investigation 13189353 into the construction project at [a specific address in] Paramus NJ (owned by [two individuals]), from April 1, 2022 to March 30, 2023." The Complainants' request item No. 2 sought "[a]ny documents relating to the [DCA] investigation into the actions of the Paramus Construction official, Michael O'Connell, pertaining to the construction project at [a specific address] (owned by [two individuals])." The Custodian denied access to both items, asserting that they were improper, overly broad requests for information that would require her to conduct research to determine which records were responsive, actions that the Custodian argued she was not obligated to undertake. This complaint ensued, wherein Complainants argued that their request was "legally proper" and any efforts to clarify the subject request and resolve the Custodian's denial were ignored.

Complainants' OPRA request item No. 1 seeking "all documents (including legal notices and filings)" regarding a DCA investigation

Complainants' OPRA request item No. 2 seeking "[a]ny documents" related to the DCA investigation

A plain reading of a portion of request item No. 1 and all of item No. 2 supports a finding that they fail to identify any specific government record under OPRA. Rather, the subject OPRA request item No. 1 asks for "all documents" received by "any Paramus official" from the DCA relating to the DCA's investigation into the construction project at a specific address in Paramus, NJ. Likewise, request Item No. 2 seeks "any documents" relating to the DCA's investigation into the actions of Michael O'Connell regarding the specified construction project. The subject request items would require the Custodian to review every document maintained by the Borough and make subjective determinations as to which records qualify as responsive to the Complainant's generic, overbroad term "documents"—actions that the Lagerkvist court said custodians are not required to undertake.

Accordingly, a portion of Complainants' request item No. 1 and item No. 2 are invalid because they failed to identify a specific record and would require the Custodian to perform research and make subjective determinations. 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 237; Schuler, GRC 2007-151. Thus, the Custodian lawfully denied access to these request items. N.J.S.A. 47:1A-6.

Complainants' OPRA request item No. 1 seeking "(correspondence, e-mails)"

The portion of Complainants' request item No. 1 seeking correspondence and e-mails requires a different analysis from the above. Specifically, this portion of item No. 1 sought correspondence and e-mails where Paramus officials were the sender and DCA was recipient, a date range of April 1, 2022 through March 30, 2023, and the specific subject of a construction project at a specific address. Thus, as it relates to this limited portion of the request item No. 1, the

Elcavage criteria is present and thus same is valid. This finding is supported by extensive case law, including Armenti, GRC 2009-154.

Accordingly, the portion of Complainants' OPRA request item No. 1 seeking correspondence and e-mails over a defined date range for a specific subject is a valid OPRA request pursuant to Elcavage, GRC 2009-07. Thus, the Custodian denial of this portion of OPRA request item No. 1 was unlawful. N.J.S.A. 47:1A-6. The Custodian shall either: 1) locate and disclose to the Complainant the records responsive to this portion of OPRA request item No. 1, with redactions and legal basis therefor where applicable, 2) identify any records exempt from disclosure in their totality including the legal basis for the denial; or 3) certify if no records responsive to this portion of the item exist.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that:

1. A portion of Complainants' request item No. 1 and item No. 2 are invalid because they failed to identify a specific record and would require the Custodian to perform research and make subjective determinations. MAG Entm't, LLC v. Div. of ABC, 375 N.J. Super. 534, 546 (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); Lagerkvist v. Office of the Governor, 443 N.J. Super. 230, 236-237 (App. Div. 2015); Schuler v. Borough of Bloomsbury (Hunterdon), GRC Complaint No. 2007-151 (February 2009). Thus, the Custodian lawfully denied access to these request items. N.J.S.A. 47:1A-6.
2. The portion of Complainants' OPRA request item No. 1 seeking correspondence and e-mails over a defined date range for a specific subject is a valid OPRA request pursuant to Elcavage v. West Milford Twp. (Passaic), GRC Complaint No. 2009-07 (April 2010). Thus, the Custodian denial of this portion of OPRA request item No. 1 was unlawful. N.J.S.A. 47:1A-6. The Custodian shall either: 1) locate and disclose to the Complainant the records responsive to this portion of OPRA request item No. 1, with redactions and legal basis therefor where applicable, 2) identify any records exempt from disclosure in their totality including the legal basis for the denial; or 3) certify if no records responsive to this portion of the item exist.
3. **The Custodian shall comply with conclusion No. 2 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).**

Prepared By: Frank F. Caruso
Executive Director

December 2, 2025