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JACQUELYN A. SUÁREZ  
Commissioner

## FINAL DECISION

### May 20, 2025 Government Records Council Meeting

Bridget Frittsch  
Complainant

Complaint No. 2023-79

v.

Township of Woodbridge (Middlesex)  
Custodian of Record

At the May 20, 2025, public meeting, the Government Records Council (“Council”) considered the May 13, 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. The Custodian did not bear his burden of proof that he timely responded to the Complainant’s OPRA request. N.J.S.A. 47:1A-6. As such, the Custodian’s failure to respond in writing to the Complainant’s OPRA request either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days results in a “deemed” denial of the Complainant’s OPRA request pursuant to N.J.S.A. 47:1A-5(g), N.J.S.A. 47:1A-5(i), and Kelley v. Twp. of Rockaway, GRC Complaint No. 2007-11 (Interim Order dated October 31, 2007).
2. The Complainant’s request is invalid because it asked a series of questions rather than seeking specific government records 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); Rummel v. Cumberland Cnty. Bd. of Chosen Freeholders, GRC Complaint No. 2011-168 (December 2012); Watt v. Borough of North Plainfield (Somerset), GRC Complaint No. 2007-246 (September 2009). For this reason, the Custodian did not unlawfully deny access to requested information because said request is invalid on its face. 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 20<sup>th</sup> Day of May 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: May 27, 2025**

**STATE OF NEW JERSEY  
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director  
May 20, 2025 Council Meeting**

**Bridget Fritzscht<sup>1</sup>  
Complainant**

**GRC Complaint No. 2023-79**

**v.**

**Township of Woodbridge (Middlesex)<sup>2</sup>  
Custodial Agency**

**Records Relevant to Complaint:** Electronic copies of the following with regard to the Avenel Performing Arts Center/Curtains (“Avenel”), 150 Avenel St., Avenel, NJ:

1. “What is the revenue generated from the recording studio and Performing Art Center? Where does the revenue generated go?
2. Regardless if non-profit or not, how are the employees/staff paid? Who are the employees/staff and what are their salaries, benefits and work title (for the Avenel Art Center and Restaurant)?
3. Who are the board of Trustees Officers? Who are the Board Members?
4. Do any Trustee Officers or Board Members work for the Township of Woodbridge [(“Township”) or any other Government Entity?
5. Who decides what acts are booked into [Avenel]? How are the acts paid and where does the money for the performers come from? Is any of the Government Arts Funding used for the Arts Center or Curtains at all.”

**Custodian of Record:** John Mitch

**Request Received by Custodian:** March 23, 2023

**Response Made by Custodian:** April 21, 2023

**GRC Complaint Received:** April 6, 2023

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<sup>1</sup> No legal representation listed on record.

<sup>2</sup> Represented by Brian A. Bontempo, Esq. of James P. Nolan & Associates, LLC (Woodbridge, NJ).

## **Background**<sup>3</sup>

### **Request:**

On March 22, 2023, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records.

### **Denial of Access Complaint:**

On April 6, 2023, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant stated that she submitted the subject OPRA request on March 22, 2023. The Complainant provided a facsimile confirmation as proof that the Township received the subject request. The Complainant stated that the Township did not respond to her request.

### **Response:**

On April 21, 2023, the twenty-first (21<sup>st</sup>) business day after receipt of the OPRA request, Custodian’s Counsel responded in writing on behalf of the Custodian denying the Complainant’s request on the basis that it was invalid because it asked questions about Avenel and did not identify or request a specific government record pursuant to 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 (2005). Counsel also noted that the Township’s failure to timely respond was inadvertent as said request was confused with other similar requests submitted by the Complainant.<sup>4</sup>

### **Statement of Information:**

On April 24, 2023, the Custodian filed a Statement of Information (“SOI”). The Custodian certified that he received the Complainant’s OPRA request on March 23, 2023. The Custodian certified that, through Counsel, he responded in writing on April 21, 2023, denying access to the Complainant’s request on the basis that it was invalid per MAG, 375 N.J. Super. at 546-549, and Bent, 381 N.J. Super. at 37 because it asked questions about Avenel and did not identify or request a specific government record.

The Custodian stated that his failure to timely respond was inadvertent; he confused the subject OPRA request with other similar requests submitted by the Complainant. The Custodian certified that, after the filing of this complaint, he immediately responded to the subject OPRA request upon the realization that no response had been provided.

The Custodian further argued that notwithstanding his failure to timely respond, the subject OPRA request was invalid because it asked questions and failed to identify any specific

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<sup>3</sup> 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.

<sup>4</sup> Those OPRA requests were the subject of Fritsch v. Twp. of Woodbridge (Middlesex), GRC Complaint Nos. 2023-63 and 2023-67: both are being concurrently adjudicated with this complaint.

government records. The Custodian thus averred that based on the foregoing, the OPRA request was invalid on its face and this complaint should be dismissed.

## **Analysis**

### **Timeliness**

OPRA mandates that a custodian must either grant or deny access to requested records within seven (7) business days from receipt of said request. N.J.S.A. 47:1A-5(i). A custodian's failure to respond within the required seven (7) business days results in a "deemed" denial. Id. Further, a custodian's response, either granting or denying access, must be in writing pursuant to N.J.S.A. 47:1A-5(g).<sup>5</sup> Thus, a custodian's failure to respond in writing to a complainant's OPRA request either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days results in a "deemed" denial of the complainant's OPRA request pursuant to N.J.S.A. 47:1A-5(g), N.J.S.A. 47:1A-5(i), and Kelley v. Twp. of Rockaway, GRC Complaint No. 2007-11 (Interim Order dated October 31, 2007).

In the matter before the Council, the Complainant submitted her OPRA request on March 22, 2023. On April 21, 2023, through Counsel, the Custodian responded in writing denying access to the Complainant's request on the basis that it was invalid under MAG, 375 N.J. Super. at 546–549; Bent, 381 N.J. Super. at 37. This complaint followed, wherein the Complainant argued that the Township failed to respond to her OPRA request. In the SOI, the Custodian acknowledged his failure to timely respond, but that it was inadvertent based on his confusion with other similar requests submitted by the Complainant. The Custodian certified that, through Counsel, he immediately responded to the subject request upon the realization that no response had been provided.

Therefore, the Custodian did not bear his burden of proof that he timely responded to the Complainant's OPRA request. N.J.S.A. 47:1A-6. As such, the Custodian's failure to respond in writing to the Complainant's OPRA request either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days results in a "deemed" denial of the Complainant's OPRA request pursuant to N.J.S.A. 47:1A-5(g), N.J.S.A. 47:1A-5(i), and Kelley, GRC 2007-11.

### **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.

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<sup>5</sup> A custodian's written response either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days, even if said response is not on the agency's official OPRA request form, is a valid response pursuant to OPRA.

[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). Bent, 381 N.J. Super. 30;<sup>6</sup> 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).

Invalid OPRA requests typically fall 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. 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).

The GRC has routinely held that requests framed within the confines of a question are considered exempt from disclosure. For example, in Watt v. Borough of North Plainfield (Somerset), GRC Complaint No. 2007-246 (September 2009), the complainant’s OPRA request sought answers to five (5) questions regarding a property named the Villa Maria. The Council held that the Complainant’s request was invalid because it failed to identify a specific government record. See also Ohlson v. Twp. of Edison (Middlesex), GRC Complaint No. 2007- 233 (August 2009); Dunleavy v. Jefferson Twp. Bd. Educ. (Morris), GRC Complaint No. 2014-372 (Interim Order dated June 30, 2015) (finding that request that requires a yes or no response is invalid because it is merely a question and not a request for a government record).

Here, the Complainant’s request asked several direct questions about the revenue, funding, management and operations of Avenel. The Complainant’s request did not identify or request a

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<sup>6</sup> Affirmed on appeal regarding Bent v. Stafford Police Department, GRC Case No. 2004-78 (October 2004).

specific government record. In the SOI, the Custodian argued that the subject OPRA request was invalid because it asked questions and did not seek a specific government record. The GRC agrees that the request is invalid based on longstanding precedent in Rummel, and Watt, that requests asking questions are invalid under OPRA. See also Vance v. Sussex Cnty. Sheriff's Office, GRC Complaint No. 2012-188 (June 2013); Alexander v. N.J. Dep't of Corr., GRC Complaint No. 2018-136 (June 2020).

Accordingly, the Complainant's request is invalid because it asked a series of questions rather than seeking specific government records. MAG, 375 N.J. Super. at 546; Bent, 381 N.J. Super. at 37; Rummel, GRC 2012-188; Watt, GRC 2007-246. For this reason, the Custodian did not unlawfully deny access to requested information because said request is invalid on its face. N.J.S.A. 47:1A-6.

### **Conclusions and Recommendations**

The Executive Director respectfully recommends the Council find that:

1. The Custodian did not bear his burden of proof that he timely responded to the Complainant's OPRA request. N.J.S.A. 47:1A-6. As such, the Custodian's failure to respond in writing to the Complainant's OPRA request either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days results in a "deemed" denial of the Complainant's OPRA request pursuant to N.J.S.A. 47:1A-5(g), N.J.S.A. 47:1A-5(i), and Kelley v. Twp. of Rockaway, GRC Complaint No. 2007-11 (Interim Order dated October 31, 2007).
2. The Complainant's request is invalid because it asked a series of questions rather than seeking specific government records 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); Rummel v. Cumberland Cnty. Bd. of Chosen Freeholders, GRC Complaint No. 2011-168 (December 2012); Watt v. Borough of North Plainfield (Somerset), GRC Complaint No. 2007-246 (September 2009). For this reason, the Custodian did not unlawfully deny access to requested information because said request is invalid on its face. N.J.S.A. 47:1A-6

Prepared By: Jennifer C. Howell  
Staff Attorney

May 13, 2025