



State of New Jersey

DEPARTMENT OF COMMUNITY AFFAIRS

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MIKIE SHERRILL

Governor

DR. DALE G. CALDWELL

Lieutenant Governor

JACQUELYN A. SUÁREZ

Commissioner

FINAL DECISION

July 28, 2026 Government Records Council Meeting

Judson Moore

Complainant

v.

Commercial Township (Cumberland)

Custodian of Record

Complaint No. 2025-401

At the July 28, 2026, public meeting, the Government Records Council (“Council”) considered the July 21, 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 bore her burden of proof that she timely responded to the Complainant’s OPRA request, including the request for budget summaries. N.J.S.A. 47:1A-6. The evidence of record shows that the Custodian responded to the Complainant on the first (1st) business day after she received the Complainant’s OPRA request after she received the Complainant’s OPRA request and provided all existing responsive records. N.J.S.A. 47:1A-5(e). Herron v. Twp. of Montclair, GRC Complaint No. 2006-178 (February 2007).
2. The Custodian did not unlawfully deny access to the Complainant’s October 23, 2025 OPRA request. N.J.S.A. 47:1A-6. Specifically, the Custodian certified, and the evidence of record reflects, that Custodian provided all responsive records. See Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (Interim Order dated April 28, 2010).

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 28th Day of July 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: July 30, 2026

**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
July 28, 2026 Council Meeting**

**Judson Moore¹
Complainant**

GRC Complaint No. 2025-401

v.

**Commercial Township (Cumberland)²
Custodial Agency**

Records Relevant to Complaint: Electronic copies via e-mail of:

1. Budget Summary report for the current fund, capital fund, and grant fund from January 1, 2025 to September 30, 2025.
2. Monthly tax collector's report for September.
3. Monthly road department report for September.
4. Monthly Clerk's report for September.

Custodian of Record: Heather Miller

Request Received by Custodian: October 23, 2025

Response Made by Custodian: November 4, 2025

GRC Complaint Received: December 16, 2025

Background³

Request and Response:

On October 23, 2025, the Complainant submitted an Open Public Records Act ("OPRA") request to the Custodian seeking the above-mentioned records. On November 4, 2025, the sixth (6th) business day after receipt of the OPRA request, the Custodian responded in writing disclosing the records responsive to item Nos. 1, 2, and 4 of the request, and stated that no responsive records exist as to request item No. 3.

On November 7, 2025, the Complainant e-mailed the Custodian asking for her to review and respond to his OPRA request. On November 12, 2023, the Custodian responded to the Complainant stating that this OPRA request was fulfilled on November 4, 2025, and sent the responsive records again.

¹ No legal representation listed on record.

² No legal representation listed on record.

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.

Denial of Access Complaint:

On December 16, 2025, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant asserted that he received nothing from the Custodian. The Complainant asserted that he has previously submitted OPRA requests to Commercial Township on a monthly basis and has never had any problems.

Statement of Information:

On January 13, 2026, the Custodian filed a Statement of Information (“SOI”). The Custodian certified that she received the Complainant’s OPRA request on October 23, 2025. The Custodian certified that the Township works four days per week and is closed on Fridays. The Custodian certified that she was on vacation until November 3, 2025, and had an auto reply that OPRA requests could be sent to her deputy. The Custodian certified that her deputy did not receive an OPRA request from the Complainant during this time. The Custodian certified that she responded in writing on November 4, 2025, providing all requested records except for OPRA request item No. 3, the monthly road department report, because no monthly road department report exists. The Custodian certified that the Complainant emailed her on November 7, 2025, asking the Custodian to review and respond to his original request. The Custodian certified that she sent all existing responsive records to the Complainant again on November 12, 2025. The Custodian certified that the Complainant has submitted OPRA requests to Commercial Township for years with the same e-mail address and that she has never received a response saying that the e-mail address was undeliverable.

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).⁴ 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).

Additionally, barring extenuating circumstances, a custodian’s failure to respond immediately in writing to a complainant’s OPRA request for immediate access records, either granting access, denying access, seeking clarification, or requesting an extension of time, also

⁴ 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.

results in a “deemed” denial of the request pursuant to N.J.S.A. 47:1A-5(e), N.J.S.A. 47:1A-5(g), and N.J.S.A. 47:1A-5(i).⁵

In Herron v. Twp. of Montclair, GRC Complaint No. 2006-178 (February 2007), the GRC held that “immediate access language of OPRA (N.J.S.A. 47:1A-5(e)) suggests that the Custodian was still obligated to immediately notify the Complainant.” Inasmuch as OPRA requires a custodian to respond within a statutorily required time frame, when immediate access records are requested, a custodian must respond to the request for those records immediately, granting or denying access, requesting additional time to respond, or requesting clarification of the request. Additionally, if immediate access items are contained within a larger OPRA request containing a combination of records requiring a response within seven (7) business days and immediate access records requiring an immediate response, a custodian still has an obligation to respond to immediate access items immediately. See Kohn v. Twp. of Livingston (Essex), GRC Complaint No. 2011-330 (Interim Order dated February 26, 2013).

Here, the Complainant sought, among other records, budget reports for the current fund, capital fund, and grant fund from January 1, 2025 to September 30, 2025 (request item No. 1). An OPRA request for these records requires an immediate response. N.J.S.A. 47:1A-5(e). The record shows that Commercial Township works four days per week, Monday through Thursday. The Custodian certified that the Complainant’s OPRA request was received in her e-mail inbox on Thursday, October 23, 2025; however, she was on vacation until November 3, 2025. Further, the Custodian certified that while on vacation she had an auto reply directing OPRA requestors to submit their requests to her deputy, but her deputy did not receive an OPRA request from the Complainant. Therefore, the Custodian disclosed the requested budget records, as well as all other existing responsive records, to the Complainant on November 4, 2025, the first (1st) business day after she received the request.

Accordingly, the Custodian bore her burden of proof that she timely responded to the Complainant’s OPRA request, including the request for budget summaries. N.J.S.A. 47:1A-6. The evidence of record shows that the Custodian responded to the Complainant on the first (1st) business day after she received the Complainant’s OPRA request and provided all existing responsive records. N.J.S.A. 47:1A-5(e); Herron, GRC 2006-178.

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.

In Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (Interim

⁵ OPRA lists immediate access records as “budgets, bills, vouchers, contracts, including collective negotiations agreements and individual employment contracts, and public employee salary and overtime information.” N.J.S.A. 47:1A-5(e). The Council has also determined that purchase orders and invoices are immediate access records. See Kohn v. Twp. of Livingston (Essex), GRC Complaint No. 2012-03 (April 2013).

Order dated April 28, 2010), the Council found that the custodian did not unlawfully deny access to the requested records based on the custodian's certification that all such records were provided to the complainant. The Council held that the custodian's certification, in addition to the lack of refuting evidence from the complainant, was sufficient to meet the custodian's burden of proof. See also Burns v. Borough of Collingswood, GRC Complaint No. 2005-68 (September 2005); Holland v. Rowan Univ., GRC Complaint No. 2014-63, *et seq.* (March 2015).

In the instant matter, the Complainant's OPRA request for four (4) items included budget summaries, a monthly tax collector's report for September, a monthly road department report for September, and a monthly Clerk's report for September. The Custodian responded on the sixth (6th) business day disclosing records responsive to OPRA request item Nos. 1, 2, and 4, and advised that no record existed for item No. 3. In the SOI, the Custodian certified that all documents requested were provided to the Complainant. The Custodian certified that there is no monthly road department report nor is there any road department report from any time frame. Therefore, the Custodian timely provided all records responsive to the subject OPRA request to the Complainant.

Thus, the Custodian did not unlawfully deny access to the Complainant's October 23, 2025 OPRA request. N.J.S.A. 47:1A-6. Specifically, the Custodian certified, and the evidence of record reflects, that Custodian provided all responsive records. See Danis, GRC 2009-156, *et seq.*

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that:

1. The Custodian bore her burden of proof that she timely responded to the Complainant's OPRA request, including the request for budget summaries. N.J.S.A. 47:1A-6. The evidence of record shows that the Custodian responded to the Complainant on the first (1st) business day after she received the Complainant's OPRA request after she received the Complainant's OPRA request and provided all existing responsive records. N.J.S.A. 47:1A-5(e). Herron v. Twp. of Montclair, GRC Complaint No. 2006-178 (February 2007).
2. The Custodian did not unlawfully deny access to the Complainant's October 23, 2025 OPRA request. N.J.S.A. 47:1A-6. Specifically, the Custodian certified, and the evidence of record reflects, that Custodian provided all responsive records. See Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (Interim Order dated April 28, 2010).

Prepared By: Brenda B. Alves
Staff Attorney

July 21, 2026