



NEW JERSEY GOVERNMENT RECORDS COUNCIL
Administrative Complaint Disposition – Unripe Cause of Action

GRC Complaint No.: 2012-113

Complainant: David Herron

Public Agency: Borough of Red Bank (Monmouth)

Custodian of Record: Pamela Borghi

Date of Request: April 2, 2012

Date of Complaint: April 12, 2012¹

Complaint Disposition: The Complainant provided his OPRA request for records to the Custodian on April 2, 2012. The Complainant verified his complaint on April 12, 2012, which is the sixth (6th) business day from the date the Custodian received the Complainant’s OPRA request.² Here, because the records requested³ are not immediate access records, the Complainant verified his complaint before the statutory time period provided for the Custodian to respond had expired; therefore the complaint is materially defective and must be dismissed.⁴

Applicable OPRA Provision: “[...]custodian of a government record shall grant access to a government record or deny access to a government record as soon as possible, but not later than seven business days after receiving the request....” N.J.S.A. 47:1A-5.i.

“A person who is denied access to a government record by the custodian of the record...may institute a proceeding to challenge the custodian’s decision by filing...a complaint with the Government Records Council...” 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.

Effective Date of Disposition: April 25, 2012

Prepared By: Harlynn A. Lack, Esq.
Case Manager

¹ The GRC received the Denial of Access Complaint on said date.

² The Borough of Red Bank’s offices were closed on April 6, 2012.

³ The Complainant requested a resume and job application.

⁴ The Council held in Sallie v. New Jersey Department of Banking & Insurance, GRC Complaint No. 2007-226, that “[i]n order for such a complaint to be ripe, the complainant must have been denied access to a government record. In the instant matter, however, the complainant verified his complaint *before* he was denied access to any of the records responsive to his request.” Therefore, the Council dismissed the complainant’s Denial of Access Complaint, because, “...the Custodian had not at that time denied the Complainant access to a government record...”



Approved By: Catherine Starghill, Esq.
Executive Director

Date: April 20, 2012

Distribution Date: April 26, 2012