



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

Kevin Alexander
Complainant

GRC Complaint No. 2014-70

v.

New Jersey Department of Corrections
Custodial Agency

Custodian of Record: John Falvey, Esq.

Request Received by Custodian: January 17, 2014 and February 4, 2014

GRC Complaint Received: January 29, 2014

Complaint Disposition: The Complainant provided his OPRA requests to the Custodian on December 30, 2013, and January 24, 2014. The Custodian received said requests on January 17, 2014 and February 4, 2014 respectively. The Complainant verified his complaint on January 24, 2014, on the second (2nd) and same business days respectively from the dates the Custodian received the Complainant's OPRA requests.¹ Further, the Complainant noted that he filed this complaint in anticipation of not receiving a response. OPRA provides that the Custodian “. . . 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). Here, because the records sought are not immediate access records and the Complainant verified his complaint before the statutory time frame provided for the Custodian to respond had expired, this complaint is materially defective and must be dismissed.

Applicable OPRA Provision: “. . . [A] 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 29, 2014

¹ The GRC notes that holidays and State closing due to inclement weather affected the calculation of the statutorily mandated time frame in this complaint.



Prepared By: Frank F. Caruso
Senior Case Manager

Approved By: Dawn R. SanFilippo, Esq.
Senior Counsel

Date: April 22, 2014

Distribution Date: April 30, 2014