



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
101 SOUTH BROAD STREET
PO BOX 819
TRENTON, NJ 08625-0819

PHILIP D. MURPHY
Governor

LT. GOVERNOR SHEILA Y. OLIVER
Commissioner

FINAL DECISION

February 26, 2019 Government Records Council Meeting

Art Rittenhouse
Complainant

Complaint No. 2016-276

v.

Sayreville Economic and Redevelopment
Authority (Middlesex)
Custodian of Record

At the February 26, 2019 public meeting, the Government Records Council (“Council”) considered the February 19, 2019 Supplemental Findings and Recommendations of the Executive Director and all related documentation submitted by the parties. The Council, by a majority vote, adopted the entirety of said findings and recommendations. The Council, therefore, finds that:

1. The Custodian complied with the Council’s January 31, 2019 Interim Order because he responded in the prescribed time frame providing the record, and simultaneously provided certified confirmation of compliance to the Council Staff.
2. Although the Custodian failed to obtain and disclose the requested record in violation of N.J.S.A. 47:1A-6, the Custodian fully complied with the Council’s January 31, 2019 Interim Order. Additionally, the evidence of record does not indicate that the Custodian’s violation of OPRA had a positive element of conscious wrongdoing or was intentional and deliberate. Therefore, the Custodian’s actions do not rise to the level of a knowing and willful violation of OPRA and unreasonable denial of access under the totality of the circumstances.

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 26th Day of February, 2019

Robin Berg Tabakin, Esq., 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: March 1, 2019

**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Supplemental Findings and Recommendations of the Council Staff
February 26, 2019 Council Meeting**

**Art Rittenhouse¹
Complainant**

GRC Complaint No. 2016-276

v.

**Sayreville Economic and Redevelopment Authority (Middlesex)²
Custodial Agency**

Records Relevant to Complaint: A copy of an e-mail from Councilman Steve Grillo to Councilman Dan Buchanan that was discussed at the September 22, 2016 agency meeting, and the names of all people who received a copy of said e-mail.

Custodian of Record: Joseph P. Ambrosio
Request Received by Custodian: October 3, 2016
Response Made by Custodian: October 11, 2016
GRC Complaint Received: October 18, 2016

Background

January 31, 2019 Council Meeting:

At its January 31, 2019 public meeting, the Council considered the January 22, 2019 Findings and Recommendations of the Council Staff and all related documentation submitted by the parties. The Council voted unanimously to adopt the entirety of said findings and recommendations. The Council, therefore, found that:

1. The Custodian failed to bear his burden of proving a lawful denial of access to the responsive e-mail because he failed to obtain the responsive e-mail from either Commissioner Grillo or Councilman Buchanan and provide to the Complainant pursuant to Burnett v. Cnty. of Gloucester, 415 N.J. Super. 506, 517 (App. Div. 2010) and Meyers v. Borough of Fair Lawn (Bergen), GRC Complaint No. 2005-127 (May 2006). N.J.S.A. 47:1A-6. Thus, the Custodian must obtain the e-mail and provide same to the Complainant.
2. **The Custodian shall comply with conclusion No. 1 above within five (5) business days from receipt of the Council's Interim Order with appropriate redactions, including a detailed document index explaining the lawful basis for each**

¹ No legal representation listed on record.

² Represented by Michael J. Baker, Esq., of Hoagland, Longo, Moran, Dunst & Doukas (New Brunswick, N.J.).
Art Rittenhouse v. Sayreville Economic Redevelopment Authority (Middlesex), 2016-176 – Supplemental Findings and Recommendations of the Council Staff

redaction, if applicable. Further, the Custodian shall simultaneously deliver³ certified confirmation of compliance, in accordance with N.J. Court Rules, R. 1:4-4,⁴ to the Council Staff.⁵

3. The portion of the Complainant's OPRA request seeking the identity of those who received a copy of the requested e-mail is an invalid request for information that fails to see identifiable 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); N.J. Builders Assoc. 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); LaMantia v. Jamesburg Pub. Library (Middlesex), GRC Complaint No. 2008-140 (February 2009); Ohlson v. Twp. of Edison (Middlesex), GRC Complaint No. 2007-233 (August 2009). Thus, there was no unlawful denial of access to this part of the Complainant's OPRA request. N.J.S.A. 47:1A-6.
4. The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances pending the Custodian's compliance with the Council's Interim Order.

Procedural History:

On February 4, 2019, the Council distributed its Interim Order to all parties. On February 7, 2019 the Custodian responded to the Council's Interim Order. The Custodian certified that he obtained and disclosed to the Complainant the requested e-mail, along with a certified confirmation of compliance to the Council Staff.

Analysis

Compliance

At its January 31, 2019 meeting, the Council ordered the Custodian to obtain the requested e-mail that was the subject of the agency meeting and to submit certified confirmation of compliance, in accordance with N.J. Court Rule, R. 1:4-4, to the Council Staff. On February 4, 2019, the Council distributed its Interim Order to all parties, providing the Custodian five (5) business days to comply with the terms of said Order. Thus, the Custodian's response was due by close of business on February 11, 2019.

³ The certified confirmation of compliance, including supporting documentation, may be sent overnight mail, regular mail, e-mail, facsimile, or be hand-delivered, at the discretion of the Custodian, as long as the GRC physically receives it by the deadline.

⁴ "I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment."

⁵ Satisfactory compliance requires that the Custodian deliver the record(s) to the Complainant in the requested medium. If a copying or special service charge was incurred by the Complainant, the Custodian must certify that the record has been *made available* to the Complainant but the Custodian may withhold delivery of the record until the financial obligation is satisfied. Any such charge must adhere to the provisions of N.J.S.A. 47:1A-5.

On February 7, 2019, the third (3rd) business day after receipt of the Council’s Order, the Custodian responded in writing, certifying that he provided the Complainant with the requested e-mail. The Custodian also provided a certified confirmation of compliance to the Council Staff.

Therefore, the Custodian complied with the Council’s January 31, 2019 Interim Order because he responded in the prescribed time frame providing the record, and simultaneously provided certified confirmation of compliance to the Council Staff.

Knowing & Willful

OPRA states that “[a] public official, officer, employee or custodian who knowingly or willfully violates [OPRA], and is found to have unreasonably denied access under the totality of the circumstances, shall be subject to a civil penalty . . .” N.J.S.A. 47:1A-11(a). OPRA allows the Council to determine a knowing and willful violation of the law and unreasonable denial of access under the totality of the circumstances. Specifically, OPRA states “. . . [i]f the council determines, by a majority vote of its members, that a custodian has knowingly and willfully violated [OPRA], and is found to have unreasonably denied access under the totality of the circumstances, the council may impose the penalties provided for in [OPRA] . . .” N.J.S.A. 47:1A-7(e).

Certain legal standards must be considered when making the determination of whether the Custodian’s actions rise to the level of a “knowing and willful” violation of OPRA. The following statements must be true for a determination that the Custodian “knowingly and willfully” violated OPRA: the Custodian’s actions must have been much more than negligent conduct (Alston v. City of Camden, 168 N.J. 170, 185 (2001)); the Custodian must have had some knowledge that his actions were wrongful (Fielder v. Stonack, 141 N.J. 101, 124 (1995)); the Custodian’s actions must have had a positive element of conscious wrongdoing (Berg v. Reaction Motors Div., 37 N.J. 396, 414 (1962)); the Custodian’s actions must have been forbidden with actual, not imputed, knowledge that the actions were forbidden (*id.*; Marley v. Borough of Palmyra, 193 N.J. Super. 271, 294-95 (Law Div. 1993)); the Custodian’s actions must have been intentional and deliberate, with knowledge of their wrongfulness, and not merely negligent, heedless or unintentional (ECES v. Salmon, 295 N.J. Super. 86, 107 (App. Div. 1996)).

Although the Custodian failed to obtain and disclose the requested record in violation of N.J.S.A. 47:1A-6, the Custodian fully complied with the Council’s January 31, 2019 Interim Order. Additionally, the evidence of record does not indicate that the Custodian’s violation of OPRA had a positive element of conscious wrongdoing or was intentional and deliberate. Therefore, the Custodian’s actions do not rise to the level of a knowing and willful violation of OPRA and unreasonable denial of access under the totality of the circumstances.

Conclusions and Recommendations

The Council Staff respectfully recommends the Council find that:

1. The Custodian complied with the Council’s January 31, 2019 Interim Order because he responded in the prescribed time frame providing the record, and simultaneously provided certified confirmation of compliance to the Council Staff.

2. Although the Custodian failed to obtain and disclose the requested record in violation of N.J.S.A. 47:1A-6, the Custodian fully complied with the Council's January 31, 2019 Interim Order. Additionally, the evidence of record does not indicate that the Custodian's violation of OPRA had a positive element of conscious wrongdoing or was intentional and deliberate. Therefore, the Custodian's actions do not rise to the level of a knowing and willful violation of OPRA and unreasonable denial of access under the totality of the circumstances.

Prepared By: Samuel A. Rosado
Staff Attorney

February 19, 2019



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PO BOX 819
TRENTON, NJ 08625-0819

PHILIP D. MURPHY
Governor

LT. GOVERNOR SHEILA Y. OLIVER
Commissioner

INTERIM ORDER

January 31, 2019 Government Records Council Meeting

Art Rittenhouse
Complainant

Complaint No. 2016-276

v.

Sayreville Economic Redevelopment Authority (Middlesex)
Custodian of Record

At the January 31, 2019 public meeting, the Government Records Council ("Council") considered the January 22, 2019 Findings and Recommendations of the Council Staff and all related documentation submitted by the parties. The Council, by a majority vote, adopted the entirety of said findings and recommendations. The Council, therefore, finds that:

1. The Custodian failed to bear his burden of proving a lawful denial of access to the responsive e-mail because he failed to obtain the responsive e-mail from either Commissioner Grillo or Councilman Buchanan and provide to the Complainant pursuant to Burnett v. Cnty. of Gloucester, 415 N.J. Super. 506, 517 (App. Div. 2010) and Meyers v. Borough of Fair Lawn (Bergen), GRC Complaint No. 2005-127 (May 2006). N.J.S.A. 47:1A-6. Thus, the Custodian must obtain the e-mail and provide same to the Complainant.
2. **The Custodian shall comply with conclusion No. 1 above within five (5) business days from receipt of the Council's Interim Order with appropriate redactions, including a detailed document index explaining the lawful basis for each redaction, if applicable. Further, the Custodian shall simultaneously deliver¹ certified confirmation of compliance, in accordance with N.J. Court Rules, R. 1:4-4,² to the Council Staff.³**
3. The portion of the Complainant's OPRA request seeking the identity of those who received a copy of the requested e-mail is an invalid request for information that fails

¹ The certified confirmation of compliance, including supporting documentation, may be sent overnight mail, regular mail, e-mail, facsimile, or be hand-delivered, at the discretion of the Custodian, as long as the GRC physically receives it by the deadline.

² "I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment."

³ Satisfactory compliance requires that the Custodian deliver the record(s) to the Complainant in the requested medium. If a copying or special service charge was incurred by the Complainant, the Custodian must certify that the record has been *made available* to the Complainant but the Custodian may withhold delivery of the record until the financial obligation is satisfied. Any such charge must adhere to the provisions of N.J.S.A. 47:1A-5.



to see identifiable 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); N.J. Builders Assoc. 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); LaMantia v. Jamesburg Pub. Library (Middlesex), GRC Complaint No. 2008-140 (February 2009); Ohlson v. Twp. of Edison (Middlesex), GRC Complaint No. 2007-233 (August 2009). Thus, there was no unlawful denial of access to this part of the Complainant's OPRA request. N.J.S.A. 47:1A-6.

4. The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances pending the Custodian's compliance with the Council's Interim Order.

Interim Order Rendered by the
Government Records Council
On The 31st Day of January, 2019

Robin Berg Tabakin, Esq., 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: February 4, 2019

**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Council Staff
January 31, 2019 Council Meeting**

**Art Rittenhouse¹
Complainant**

GRC Complaint No. 2016-276

v.

**Sayreville Economic Redevelopment Authority (Middlesex)²
Custodial Agency**

Records Relevant to Complaint: A copy of an e-mail from Councilman Steve Grillo to Councilman Dan Buchanan that was discussed at the September 22, 2016 agency meeting, and the names of all people who received a copy of said e-mail.

Custodian of Record: Joseph P. Ambrosio
Request Received by Custodian: October 3, 2016
Response Made by Custodian: October 11, 2016
GRC Complaint Received: October 18, 2016

Background³

Request and Response:

On October 3, 2016, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned record. On October 11, 2016, the Custodian responded in writing, stating that no responsive record existed.

Denial of Access Complaint:

On October 17, 2016, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant asserted that the requested e-mail was discussed for approximately fifteen (15) minutes at the Sayreville Economic Redevelopment Authority (“SERA”) meeting held on September 22, 2016. The Complainant expressed his belief that the Chairman and Commissioner of the agency had something to hide and were not acting in the best interests of the Borough of Sayreville. The Complainant asserted that this was not the first complaint he filed against SERA, and stated that in those complaints, SERA was not able to provide responsive records.

¹ No legal representation listed on record.

² Represented by Michael J. Baker, Esq., of Hoagland, Longo, Moran, Dunst & Doukas (New Brunswick, N.J.).

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 Council Staff the submissions necessary and relevant for the adjudication of this complaint.

Art Rittenhouse v. Sayreville Economic Redevelopment Authority (Middlesex), 2016-276 – Findings and Recommendations of the Council Staff

Statement of Information:

On November 3, 2016, the Custodian filed a Statement of Information (“SOI”). The Custodian certified that he received the Complainant’s OPRA request on October 3, 2016. The Custodian certified that he responded in writing on October 11, 2016. The Custodian certified that no search was conducted, as he asserted that he had personal knowledge as the Secretary/Executive Director of SERA that no copy of this record had been received by SERA.

The Custodian asserted that the request concerned an e-mail sent between the personal e-mail accounts of the identified individuals. Therefore, the Custodian asserted that SERA did not make, maintain, or keep on file a copy of the record in the course of the SERA’s official business.

Analysis

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 Meyers v. Borough of Fair Lawn (Bergen), GRC Complaint No. 2005-127 (May 2006), the Council determined that electronic correspondence stored in a government official’s personal e-mail account was a government record subject to disclosure when used for Borough business. The Council found that “the location of the records does not inhibit the Custodian from obtaining the records and providing access to the records pursuant to OPRA.”

In Burnett v. Cnty. of Gloucester, 415 N.J. Super. 506 (App. Div. 2010) the Law Division judge below held pursuant to Bent v. Stafford Police Dep’t, 381 N.J. Super. 30 (App. Div. 2005) that responsive records did not need to be disclosed to the requestor because they were not custodian’s possession. However, the Appellate Division reversed the finding because the judge interpreted Bent, *supra*, too broadly. The Appellate Division instead found that:

We find the circumstances in Bent, *supra*, to be far removed from those existing in the present matter because . . . the settlement agreements at issue were made by or on behalf of the [defendants] in the course of its official business. Were we to conclude otherwise, a governmental agency seeking to protect its records from scrutiny could simply . . . relinquish possession to [third] parties, thereby thwarting the policy of transparency that underlies OPRA . . . We reject any narrowing legal position in this matter that would provide grounds for impeding access to such documents.

[Id. at 517.]

Here, the Complainant sought an e-mail between Steve Grillo, a Commissioner with SERA (“Commissioner Grillo”), and Dan Buchanan, a member of the Sayreville Borough Council (“Councilman Buchanan”) that was referenced during a SERA meeting. The Custodian asserted that since the e-mail was sent and received via personal e-mail accounts, SERA did not make, maintain, or keep on file the record in the ordinary course of its business.

Both Burnett and Meyers control in the instant complaint. Specifically, it is confirmed that the parties involved were public officials at the time of request. Additionally, the fact that the Custodian did not dispute that the contents of the e-mail was discussed during a SERA meeting creates a strong inference that the contents of the e-mail concerned government business. To note, any records “. . . made by or on behalf of . . .” SERA in the course of its official business are subject to disclosure. Burnett, 381 N.J. Super. at 517. Thus, if the e-mail’s contents pertained to official business with SERA, regardless of whether it was sent and/or received from a personal e-mail account, the Custodian should have obtained and provided same, with redactions if necessary.

Therefore, the Custodian failed to bear his burden of proving a lawful denial of access to the responsive e-mail because he failed to obtain the responsive e-mail from either Commissioner Grillo or Councilman Buchanan and provide to the Complainant pursuant to Burnett, 381 N.J. Super. at 517, and Meyers GRC 2005-127. N.J.S.A. 47:1A-6. Thus, the Custodian must obtain the e-mail and provide same to the Complainant.

Request Validity

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 (App. Div. 2005) (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 v. Stafford Police Dep’t, 381 N.J. Super. 30, 37 (App. Div. 2005),⁴ N.J. Builders Assoc. 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).

In LaMantia v. Jamesburg Pub. Library (Middlesex), GRC Complaint No. 2008-140 (February 2009), the complainant requested the number of Jamesburg residents that held library cards. The GRC deemed that the complainant’s request was a request for information, holding that “. . . because request Item No. 2 of the Complainant’s June 25, 2008 OPRA request seeks information rather than an identifiable government record, the request is invalid pursuant to [MAG] . . .” Id. at 6. In Ohlson v. Twp. of Edison (Middlesex), GRC Complaint No. 2007-233 (August 2009), the Council held that the Complainant’s request for the name of an individual was an invalid request for information.

In the instant matter, the Complainant’s request sought not only the e-mail itself, but also the identity of anyone who received a copy of said e-mail. Similar to Ohlson, the Complainant’s request seeks the identity of those who received a copy of the e-mail, and not an identifiable “government record.”

Therefore, the portion of the Complainant’s OPRA request seeking the identity of those who received a copy of the requested e-mail is an invalid request for information that fails to see identifiable government records. MAG, 375 N.J. Super. at 546; Bent, 381 N.J. Super. at 37; N.J. Builders, 390 N.J. Super. at 180; Schuler, GRC 2007-151; LaMantia, GRC 2008-140; Ohlson, GRC 2007-233. Thus, there was no unlawful denial of access to this part of the Complainant’s OPRA request. N.J.S.A. 47:1A-6.

Knowing & Willful

The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances pending the Custodian’s compliance with the Council’s Interim Order.

Conclusions and Recommendations

The Council Staff respectfully recommends the Council find that:

1. The Custodian failed to bear his burden of proving a lawful denial of access to the responsive e-mail because he failed to obtain the responsive e-mail from either Commissioner Grillo or Councilman Buchanan and provide to the Complainant pursuant to Burnett v. Cnty. of Gloucester, 415 N.J. Super. 506, 517 (App. Div. 2010)

⁴ Affirmed on appeal regarding Bent v. Stafford Police Department, GRC Complaint No. 2004-78 (October 2004). Art Rittenhouse v. Sayreville Economic Redevelopment Authority (Middlesex), 2016-276 – Findings and Recommendations of the Council Staff

and Meyers v. Borough of Fair Lawn (Bergen), GRC Complaint No. 2005-127 (May 2006). N.J.S.A. 47:1A-6. Thus, the Custodian must obtain the e-mail and provide same to the Complainant.

2. **The Custodian shall comply with conclusion No. 1 above within five (5) business days from receipt of the Council's Interim Order with appropriate redactions, including a detailed document index explaining the lawful basis for each redaction, if applicable. Further, the Custodian shall simultaneously deliver⁵ certified confirmation of compliance, in accordance with N.J. Court Rules, R. 1:4-4,⁶ to the Council Staff.⁷**
3. The portion of the Complainant's OPRA request seeking the identity of those who received a copy of the requested e-mail is an invalid request for information that fails to see identifiable 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); N.J. Builders Assoc. 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); LaMantia v. Jamesburg Pub. Library (Middlesex), GRC Complaint No. 2008-140 (February 2009); Ohlson v. Twp. of Edison (Middlesex), GRC Complaint No. 2007-233 (August 2009). Thus, there was no unlawful denial of access to this part of the Complainant's OPRA request. N.J.S.A. 47:1A-6.
4. The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances pending the Custodian's compliance with the Council's Interim Order.

Prepared By: Samuel A. Rosado
Staff Attorney

January 22, 2019

⁵ The certified confirmation of compliance, including supporting documentation, may be sent overnight mail, regular mail, e-mail, facsimile, or be hand-delivered, at the discretion of the Custodian, as long as the GRC physically receives it by the deadline.

⁶ "I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment."

⁷ Satisfactory compliance requires that the Custodian deliver the record(s) to the Complainant in the requested medium. If a copying or special service charge was incurred by the Complainant, the Custodian must certify that the record has been *made available* to the Complainant but the Custodian may withhold delivery of the record until the financial obligation is satisfied. Any such charge must adhere to the provisions of N.J.S.A. 47:1A-5.

Art Rittenhouse v. Sayreville Economic Redevelopment Authority (Middlesex), 2016-276 – Findings and Recommendations of the Council Staff