



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

Russell Smith
Complainant

GRC Complaint No. 2018-150

v.

Moorestown Township (Burlington)
Custodial Agency

Custodian of Record: Patricia L. Hunt

Request Received by Custodian: July 16, 2018; July 19, 2018

GRC Complaint Received: July 25, 2018

Complaint Disposition: The Complainant submitted two (2) OPRA requests to the Custodian on July 15, 2018 and July 19, 2018, respectively. The first (1st) request sought “records of all persons and entities who were provided a copy of the notice [for the affordable housing ‘fairness’ hearing scheduled for August 8, 2018,] and the dates they were sent.” The request also sought “a record of all places the notice was published or displayed and the dates they were published or displayed.”

The second (2nd) request sought “ordinances amending the Zoning Ordinance to implement the terms of the [affordable housing agreement between Moorestown and the Fair Share Housing center (“Agreement”)] and the zoning contemplated herein as related to the compliance mechanisms that are relied up [sic] to address the RDP and the Lenola Shopping Center site, as shown in Exhibit B, and adopt a Housing Element and Fair Share Plan and Spending Plan in conformance with the terms of this Agreement.”

The Complainant verified his complaint on July 24, 2018, which is six (6) business days from the date the Custodian received the Complainant’s first (1st) OPRA request, and three (3) business days from the date the Custodian received the second (2nd) OPRA request. 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, this complaint is materially defective and shall be dismissed because: 1) the requested information and ordinances were not immediate access records; and 2) the Complainant verified his complaint before the statutory period provided for the Custodian to respond had expired.¹

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).

¹ The Custodian also certified that she responded to the Complainant’s first (1st) OPRA request via e-mail on July 25, 2018, the seventh (7th) business day after receipt, and the second (2nd) OPRA request on July 26, 2018, the fifth (5th) business day after receipt.



“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 28, 2020

Prepared By: Samuel A. Rosado
Staff Attorney

Date: April 3, 2020

Distribution Date: April 29, 2020