



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

November 9, 2022 Government Records Council Meeting

Thomas S. Chichester
Complainant

Complaint No. 2020-25

v.

Cinnaminson Township (Burlington)
Custodian of Record

At the November 9, 2022 public meeting, the Government Records Council (“Council”) considered the October 27, 2022 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 the Council dismiss this complaint based on the Township’s notification of the Complainant’s death and next-of-kin’s request to dismiss said complaint on October 25, 2022. No further adjudication is required.

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 9th Day of November 2022

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: November 15, 2022



**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

***In Camera* Findings and Recommendations of the Executive Director
November 9, 2022 Council Meeting**

**Thomas S. Chichester¹
Complainant**

GRC Complaint No. 2020-25

v.

**Cinnaminson Township (Burlington)²
Custodial Agency**

Records Relevant to Complaint: On-site inspection of all closed session minutes for 2018.

Custodian of Record: Lisa A. Passione
Request Received by Custodian: October 31, 2019
Response Made by Custodian: November 1, 2019
GRC Complaint Received: January 30, 2020

Records Submitted for *In Camera* Examination: Twenty-four (24) sets of Closed Session minutes from 2018.³

Background

March 30, 2021 Council Meeting:

At its March 30, 2021 public meeting, the Council considered the March 23, 2021 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, found that:

1. Because OPRA contains no statute of limitations on Denial of Access Complaints filed with the GRC, and because the GRC is without authority to impose a statute of limitations where one does not exist, there is no statute of limitations barring the GRC's adjudication of this complaint. See Mason v. City of Hoboken, 196 N.J. 51 (2008). See also N.J. Const. art. VI, § 2, P 3; Winberry v. Salisbury, 5 N.J. 240, 255 (1950); Carter v. Franklin Fire Dist. No. 1 (Somerset), GRC Complaint No. 2012-288, *et seq.* (Interim Order dated October 29, 2013); Paff v. Harrison Twp. Fire Dist. (Gloucester), GRC Complaint No. 2014-402 (Interim Order dated July 28, 2015).

¹ No legal representation listed on record.

² Represented by Stuart A. Platt, Esq. of The Platt Law Group, P.C. (Stratford, NJ). Previously represented by Eric J.Riso, Esq., of Platt & Riso, P.C. (Stratford, NJ).

³ Although note required to by the Interim Order, the Custodian also included the March 19, 2018 closed session minutes I and II as part of the *in camera* submission.

2. The GRC must conduct an *in camera* review of the closed session minutes responsive to the Complainant's OPRA request (with the exception of the March 19, 2018 minutes I and II) to determine the validity of the Custodian's assertion that the [minutes] were exempt under the bases cited by the Custodian. N.J.S.A. 47:1A-1.1; N.J.S.A. 47:1A-10; N.J.S.A. 10:4-12(b). See Paff v. N.J. Dep't of Labor, Bd. of Review, 379 N.J. Super. 346, 355 (App. Div. 2005).
3. **The Custodian shall deliver⁴ to the Council in a sealed envelope nine (9) copies of the requested unredacted records (see conclusion No. 2 above), nine (9) copies of the redacted records, a document or redaction index⁵, as well as a legal certification from the Custodian, in accordance with N.J. Court Rules, R. 1:4-4,⁶ that the records provided are the records requested by the Council for the *in camera* inspection. Such delivery must be received by the GRC within five (5) business days from receipt of the Council's Interim Order.**
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 March 31, 2021, the Council distributed its Interim Order to all parties. On April 6, 2021, the Government Records Council ("GRC") received the Custodian's response to the Council's Interim Order. Therein, the Custodian certified that she was disclosing redacted and unredacted copies of all 2018 closed session minutes for an *in camera* review. The Custodian noted that the redactions comprised material exempt on the following bases:

1. Attorney-client privilege.
2. Attorney work-product.
3. Information which, if disclosed, would give an advantage to competitors and bidders.
4. Information generated by or on behalf of a public employer or employee in connection with collective bargaining negotiations.
5. Information generated by or on behalf of a public employer or employee in connection with any grievance filed by or against an individual.
6. "Inter-agency or intra-agency advisory, consultative, or deliberative [{"ACD"}] material."

Additional Submissions:

On September 14, 2022, Custodian's Counsel sent a letter to the GRC advising of the

⁴ The *in camera* records may be sent overnight mail, regular mail, or be hand-delivered, at the discretion of the Custodian, as long as the GRC physically receives them by the deadline.

⁵ The document or redaction index should identify the record and/or each redaction asserted and the lawful basis for the denial.

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."

Complainant's death on August 21, 2022. Counsel requested that, considering the circumstances, this complaint should be dismissed, "as it is the Township's position that the estate would lack standing to continue" with this complaint.

On September 21, 2022, the GRC e-mailed the Complainant's next-of-kin advising her of the current complaint and potential options for addressing same, citing Davenport v. Twp. of Irvington (Essex), GRC Complaint No. 2020-33 (May 2021). The GRC asked the Complainant's next-of-kin to advise whether she wished the complaint to continue through the Complainant's estate or wished to dismiss same. On September 22, 2022, the Complainant's next-of-kin e-mailed the GRC seeking additional information as to the nature of the complaint and potential benefits and disadvantages of moving forward with the adjudication.⁷

On October 24, 2022, the GRC e-mailed the Complainant's next-of-kin stating that she may dismiss this complaint by replying and stating as such. The GRC noted that dismissing this complaint did not prohibit the Complainant's next-of-kin from submitting future OPRA requests for the records at issue here. On October 25, 2022, the Complainant's next-of-kin e-mailed the GRC stating that she wished to dismiss the complaint.

Analysis

No analysis required.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council dismiss this complaint based on the Township's notification of the Complainant's death and next-of-kin's request to dismiss said complaint on October 25, 2022. No further adjudication is required.

Prepared By: Frank F. Caruso
Executive Director

October 27, 2022

⁷ Due to the sensitivity of the circumstances surrounding this complaint, as well as to provide the most detailed explanation of the complaint and its current status, the GRC contacted the Complainant's next-of-kin via telephone on October 5, 2022 to discuss the complaint.



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PHILIP D. MURPHY
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LT. GOVERNOR SHEILA Y. OLIVER
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INTERIM ORDER

March 30, 2021 Government Records Council Meeting

Thomas S. Chichester
Complainant

Complaint No. 2020-25

v.

Cinnaminson Township (Burlington)
Custodian of Record

At the March 30, 2021 public meeting, the Government Records Council (“Council”) considered the March 23, 2021 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. Because OPRA contains no statute of limitations on Denial of Access Complaints filed with the GRC, and because the GRC is without authority to impose a statute of limitations where one does not exist, there is no statute of limitations barring the GRC’s adjudication of this complaint. See Mason v. City of Hoboken, 196 N.J. 51 (2008). See also N.J. Const. art. VI, § 2, P 3; Winberry v. Salisbury, 5 N.J. 240, 255 (1950); Carter v. Franklin Fire Dist. No. 1 (Somerset), GRC Complaint No. 2012-288, *et seq.* (Interim Order dated October 29, 2013); Paff v. Harrison Twp. Fire Dist. (Gloucester), GRC Complaint No. 2014-402 (Interim Order dated July 28, 2015).
2. The GRC must conduct an *in camera* review of the closed session minutes responsive to the Complainant’s OPRA request (with the exception of the March 19, 2018 minutes I and II) to determine the validity of the Custodian’s assertion that the e-mails were exempt under the bases cited by the Custodian. N.J.S.A. 47:1A-1.1; N.J.S.A. 47:1A-10; N.J.S.A. 10:4-12(b). See Paff v. N.J. Dep’t of Labor, Bd. of Review, 379 N.J. Super. 346, 355 (App. Div. 2005).
3. **The Custodian shall deliver¹ to the Council in a sealed envelope nine (9) copies of the requested unredacted records (see conclusion No. 2 above), nine (9) copies of the redacted records, a document or redaction index², as well as a legal certification from the Custodian, in accordance with N.J. Court Rules, R. 1:4-4,³ that the records provided are the records requested by the Council for the *in***

¹ The *in camera* records may be sent overnight mail, regular mail, or be hand-delivered, at the discretion of the Custodian, as long as the GRC physically receives them by the deadline.

² The document or redaction index should identify the record and/or each redaction asserted and the lawful basis for the denial.

³ "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."

***camera* inspection. Such delivery must be received by the GRC within five (5) business days from receipt of the Council's Interim Order.**

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 30th Day of March 2021

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 31, 2021

**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
March 30, 2021 Council Meeting**

**Thomas S. Chichester¹
Complainant**

GRC Complaint No. 2020-25

v.

**Cinnaminson Township (Burlington)²
Custodial Agency**

Records Relevant to Complaint: On-site inspection of all closed session minutes for 2018.

Custodian of Record: Lisa A. Passione
Request Received by Custodian: October 31, 2019
Response Made by Custodian: November 1, 2019
GRC Complaint Received: January 30, 2020

Background³

Request and Response:

On October 31, 2019, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. On November 1, 2019, the Custodian purportedly responded⁴ extending the response time frame through November 26, 2019. On November 26, 2019, the Custodian purportedly responded again extending the response time frame through December 4, 2019.

On December 4, 2019, the Custodian responded in writing granting access to the responsive closed session minutes with redactions. The Custodian stated that those redactions encompassed material exempt on the following bases:

1. Attorney-client privilege.
2. Attorney work-product.
3. Information which, if disclosed, would give an advantage to competitors and bidders.
4. Information generated by or on behalf of a public employer or employee in connection with collective bargaining negotiations.

¹ No legal representation listed on record.

² Represented by Eric J.Riso, Esq., of Platt & Riso, P.C. (Stratford, NJ).

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.

⁴ Neither the Complainant nor the Custodian attached copies of the responses obtaining an extension of time to their submissions. Notwithstanding, the Complainant did not challenge the appropriateness of the Custodian’s extensions.

5. Information generated by or on behalf of a public employer or employee in connection with any grievance filed by or against an individual.
6. Information which is a communication between a public agency and its insurance carrier., administrative service organization, or risk management office.
7. “Inter-agency or intra-agency advisory, consultative, or deliberative [(“ACD”)] material.”

Denial of Access Complaint:

On January 30, 2020, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant asserted that the Custodian’s Counsel redacted the minutes to such an extent that they were rendered “incomprehensible.”

Statement of Information:⁵

On August 7, 2020, the Custodian filed a Statement of Information (“SOI”). The Custodian certified that she received the Complainant’s OPRA request on October 31, 2019. The Custodian certified that following two (2) extensions of time, she responded in writing on December 4, 2019 disclosing all closed session minutes for 2018 with redactions on several bases.

The Custodian first contended that the instant complaint should be dismissed because it was time barred. See Mason v. City of Hoboken, 196 N.J. 51 (2008); Caporusso v. N.J. Dep’t of Health & Senior Serv., 434 N.J. Super. 88, 99-100 (App. Div. 2014). The Custodian stated that she disclosed records on December 4, 2019; thus, the final day to file a complaint was January 20, 2020. The Custodian argued that the Complainant waited an additional ten (10) calendar days to file this complaint. The Custodian acknowledged that the Council already addressed this issue in Paff v. Harrison Twp. Fire Dist. (Gloucester), GRC Complaint No. 2014-402 (Interim Order dated July 28, 2015). The Custodian argued; however, that the Mason Court’s discussion of the statute of limitation logically and equally applies to the GRC’s process.

The Custodia next contended that she lawfully denied access to the redacted portions of the responsive closed session minutes. The Custodian argued that not only is the attorney-client privilege an OPRA exemption, but that the Open Public Meetings Act (“OPMA”) allows a governing body to go into closed session to discuss attorney-client privileged matters. N.J.S.A. 47:1A-1.1; Payton v. N.J. Tpk. Auth., 148 N.J. 524 (1997); O’Shea v. West Milford Bd. of Educ., 391 N.J. Super. 534, 540 (App. Div. 2007) (certif. denied, 192 N.J. 292 (2007)). The Custodian further argued that personnel records, including any document that qualifies as such, are similarly exempt under OPRA. N.J.S.A. 47:1A-10; Kovalcik v. Somerset Cnty. Prosecutor’s Office, 206 N.J. 581, 592 (2011). The Custodian also argued that governing bodies engaging in the deliberative process can protect those discussions under the ACD exemption. N.J.S.A. 47:1A-1.1; Educ. Law Ctr. v. N.J. Dep’t of Educ., 198 N.J. 274, 285 (2009); McGee v. Twp. of East Amwell, 416 N.J. Super. 602, 618 (App. Div. 2010). The Custodian contended that “[a]gainst this backdrop,” Cinnaminson Township (“Township”) lawfully redacted the responsive minutes. The Custodian

⁵ On February 7, 2020, this complaint was referred to mediation. On July 14, 2020, this complaint was referred back to the GRC for adjudication.

also argued that because the redactions were lawful, the GRC should decline to perform an *in camera* review.

Analysis

Statute of Limitations

As a threshold issue, the Custodian asserted in the SOI that the Complainant did not timely file his Denial of Access Complaint because he waited to file his complaint until after forty-five (45) day statute of limitation expired. The Custodian argued that that the Supreme Court of New Jersey held that requestors who choose to file an action to challenge a custodian’s denial must do so within forty-five (45) days. Mason, 196 N.J. 51 (2008). For this reason, the Custodian argued that the complaint must be dismissed.

In Mason, 196 N.J. 51, the Supreme Court determined that the appropriate statute of limitations for filing a denial of access complaint *in Superior Court* was 45 days from the date of the Custodian’s denial of access. The Court noted that this statute of limitations was consistent with the limitations period in actions in lieu of prerogative writs. Id. The Court further noted that “the former Right to Know Law specifically directed that litigants headed to Superior Court should proceed via an action in lieu of prerogative writs. N.J.S.A. 47:1A-4 (repealed 2002). That language does not appear in OPRA. See N.J.S.A. 47:1A-6.” Id.

The Court also stated that:

The Legislature plainly stated that requestors denied access to public records may file an action in Superior Court or a complaint before the GRC. N.J.S.A. 47:1A-6. Those matters “shall proceed in a summary or expedited manner.” Beyond that, the Legislature specifically deferred to the Supreme Court to adopt court rules “necessary to effectuate the purposes of this act.” N.J.S.A. 47:1A-12. The Legislature's action was consistent with our Constitution, which vests this Court with the authority to create procedural rules *for court practices*. See N.J. Const. art. VI, § 2, P 3; Winberry v. Salisbury, 5 N.J. 240, 255 (1950).

[Id. at 68 (emphasis added).]

The Court therefore held that “requestors who choose to file an action in Superior Court to challenge the decision of an OPRA custodian must do so within 45 days . . .” Id. at 70. Of more import, the Court further stated that “under OPRA, requestors have the additional option of seeking mediation before the GRC in an informal setting with no statute of limitations.” Id. at 70. Thus, the holding in Mason, 196 N.J. 51, is limited to complaints filed in the Superior Court of New Jersey.

The New Jersey Legislature is empowered to delegate to an administrative agency the authority to promulgate rules and regulations interpreting and implementing a statute. An appellate court will defer to an agency’s interpretation of a statute unless it is plainly unreasonable. The presumption of validity, however, is not without limits. If an agency’s statutory interpretation is

contrary to the statutory language, or if the agency's interpretation undermines the Legislature's intent, no deference is required. An appellate court's deference does not go so far as to permit an administrative agency, under the guise of an administrative interpretation, to give a statute any greater effect than is permitted by the statutory language. See Reilly v. AAA Mid-Atlantic Ins. Co. of NJ, 194 N.J. 474 (2008). OPRA contains no statute of limitations on Denial of Access Complaints filed with the GRC. Therefore, the GRC is without authority to impose a statute of limitations where one does not exist. See also Carter v. Franklin Fire Dist. No. 1 (Somerset), GRC Complaint No. 2012-288, *et seq.* (Interim Order dated October 29, 2013) at 4; Paff, GRC 2014-402.

Accordingly, because OPRA contains no statute of limitations on Denial of Access Complaints filed with the GRC, and because the GRC is without authority to impose a statute of limitations where one does not exist, there is no statute of limitations barring the GRC's adjudication of this complaint. See Mason, 196 N.J. 51. See also N.J. Const. art. VI, § 2, P 3; Winberry v. Salisbury, 5 N.J. 240; Carter, GRC 2012-288 *et seq.*; Paff, GRC 2014-402.

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 Paff v. N.J. Dep't of Labor, Bd. of Review, 379 N.J. Super. 346, 355 (App. Div. 2005), the complainant appealed a final decision of the Council⁶ that accepted the custodian's legal conclusion for the denial of access without further review. The Appellate Division noted that "OPRA contemplates the GRC's meaningful review of the basis for an agency's decision to withhold government records . . . When the GRC decides to proceed with an investigation and hearing, the custodian may present evidence and argument, but the GRC is not required to accept as adequate whatever the agency offers." Id. The court stated that:

[OPRA] also contemplates the GRC's *in camera* review of the records that an agency asserts are protected when such review is necessary to a determination of the validity of a claimed exemption. Although OPRA subjects the GRC to the provisions of the 'Open Public Meetings Act,' N.J.S.A. 10:4-6 to -21, it also provides that the GRC 'may go into closed session during that portion of any proceeding during which the contents of a contested record would be disclosed.' N.J.S.A. 47:1A-7(f). This provision would be unnecessary if the Legislature did not intend to permit *in camera* review.

[Id. at 355.]

Further, the court found that:

⁶ Paff v. N.J. Dep't of Labor, Bd. of Review, GRC Complaint No. 2003-128 (October 2005).

We hold only that the GRC has and should exercise its discretion to conduct *in camera* review when necessary to resolution of the appeal . . . There is no reason for concern about unauthorized disclosure of exempt documents or privileged information as a result of *in camera* review by the GRC. The GRC's obligation to maintain confidentiality and avoid disclosure of exempt material is implicit in N.J.S.A. 47:1A-7(f), which provides for closed meeting when necessary to avoid disclosure before resolution of a contested claim of exemption.

[Id.]

Moreover, N.J.A.C. 1:1-15.2(a) and (b) state that official notice may be taken of judicially noticeable facts (as explained in N.J.R.E. 201 of the New Jersey Rules of Evidence), as well as of generally recognized technical or scientific facts within the specialized knowledge of the agency or the judge. The Appellate Division has held that it was appropriate for an administrative agency to take notice of an appellant's record of convictions because judicial notice could have been taken of the records of any court in New Jersey, and appellant's record of convictions were exclusively in New Jersey. See Sanders v. Div. of Motor Vehicles, 131 N.J. Super. 95 (App. Div. 1974).

The GRC must take judicial notice that at the time the Complainant filed the subject OPRA request and this complaint, the GRC was addressing redactions applied to the Township's March 19, 2018 closed session minutes. Chichester v. Cinnaminson Twp. (Burlington), GRC Complaint No. 2018-74 (April 2020). As part of that adjudication, the Council conducted an *in camera* review of those minutes and ultimately reached a final decision requiring disclosure of a second set of minutes without redactions. Id.

In the matter before the Council, the Complainant sought access to all closed session minutes for 2018. The Custodian disclosed those minutes with redactions on several bases. This complaint followed and the Custodian reasserted her position that she lawfully denied access to those redacted portions of the minutes.

Upon review of the evidence of record in the instant complaint, the GRC cannot determine whether the Custodian properly denied access to those redacted portions of the responsive meeting minutes. Contrary to the Custodian's SOI assertion, the GRC has an obligation to perform an *in camera* review if it cannot glean enough information from the evidence of record to support the redactions. This is especially true given that the Council's previous review of a subset of the minutes at issue here resulted in an order of disclosure. See Chichester, GRC 2018-74 (Interim Order dated February 26, 2020). For these reasons, a "meaningful review" is necessary to determine whether the redactions portions of the responsive minutes fall within the asserted exemptions. Paff, 379 N.J. Super. at 355. Further, the GRC has routinely reviewed executive session meeting minutes *in camera* in complaints with facts similar to the present complaint. See *e.g.* Paff, GRC 2014-402. However, the GRC should note that re-reviewing the March 19, 2018 minutes would be considered a duplication of its adjudication in Chichester. Thus, the GRC will not require the Township to reproduce said minutes as part of its *in camera* review.

Therefore, the GRC must conduct an *in camera* review of the closed session minutes responsive to the Complainant's OPRA request (with the exception of the March 19, 2018 minutes

I and II) to determine the validity of the Custodian's assertion that the e-mails were exempt under the bases cited by the Custodian. N.J.S.A. 47:1A-1.1; N.J.S.A. 47:1A-10; N.J.S.A. 10:4-12(b). See Paff, 379 N.J. Super. at 346.

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 Executive Director respectfully recommends the Council find that:

1. Because OPRA contains no statute of limitations on Denial of Access Complaints filed with the GRC, and because the GRC is without authority to impose a statute of limitations where one does not exist, there is no statute of limitations barring the GRC's adjudication of this complaint. See Mason v. City of Hoboken, 196 N.J. 51 (2008). See also N.J. Const. art. VI, § 2, P 3; Winberry v. Salisbury, 5 N.J. 240, 255 (1950); Carter v. Franklin Fire Dist. No. 1 (Somerset), GRC Complaint No. 2012-288, *et seq.* (Interim Order dated October 29, 2013); Paff v. Harrison Twp. Fire Dist. (Gloucester), GRC Complaint No. 2014-402 (Interim Order dated July 28, 2015).
2. The GRC must conduct an *in camera* review of the closed session minutes responsive to the Complainant's OPRA request (with the exception of the March 19, 2018 minutes I and II) to determine the validity of the Custodian's assertion that the e-mails were exempt under the bases cited by the Custodian. N.J.S.A. 47:1A-1.1; N.J.S.A. 47:1A-10; N.J.S.A. 10:4-12(b). See Paff v. N.J. Dep't of Labor, Bd. of Review, 379 N.J. Super. 346, 355 (App. Div. 2005).
3. **The Custodian shall deliver⁷ to the Council in a sealed envelope nine (9) copies of the requested unredacted records (see conclusion No. 2 above), nine (9) copies of the redacted records, a document or redaction index⁸, as well as a legal certification from the Custodian, in accordance with N.J. Court Rules, R. 1:4-4,⁹ that the records provided are the records requested by the Council for the *in camera* inspection. Such delivery must be received by the GRC within five (5) business days from receipt of the Council's Interim Order.**

⁷ The *in camera* records may be sent overnight mail, regular mail, or be hand-delivered, at the discretion of the Custodian, as long as the GRC physically receives them by the deadline.

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⁹ "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."

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: Frank F. Caruso
Executive Director

March 23, 2021