



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

Frank J. Festa, Jr.
Complainant

GRC Complaint No. 2021-12

v.

Township of Marlboro (Monmouth)
Custodial Agency

Custodian of Record: Suzanne Branagan
Request Received by Custodian: January 4, 2021
GRC Complaint Received: January 12, 2021

Complaint Disposition: The Complainant provided his OPRA requests to the Custodian on January 1, 2021.¹ The Complainant verified his complaint on January 11, 2021, which is five (5) business days from the date the Custodian received the Complainant’s OPRA requests. 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 the OPRA request does not seek immediate access records and because the Complainant verified his complaint before the statutory time period provided for the Custodian to respond had expired. See Smith v. Moorestown Twp., 2020 N.J. Super. Unpub. LEXIS 1108 (App. Div. June 10, 2020).

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: January 26, 2021

Prepared By: Frank F. Caruso
Executive Director

Date: January 19, 2021
Distribution Date: January 27, 2021

¹ The Complainant’s OPRA request is a resubmission of the July 25, 2019 OPRA request that was the subject of Festa, Jr. v. Twp. of Marlboro (Monmouth), GRC Complaint No. 2019-174 (December 2020).