



State of New Jersey

DEPARTMENT OF COMMUNITY AFFAIRS
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Governor

TAHESHA L. WAY
Lieutenant Governor

JACQUELYN A. SUÁREZ
Acting Commissioner

FINAL DECISION

March 26, 2024 Government Records Council Meeting

Jennifer Dericks
Complainant

Complaint No. 2022-159

v.

Sparta Township (Sussex)
Custodian of Record

At the March 26, 2024 public meeting, the Government Records Council (“Council”) considered the March 19, 2024 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. The portion of the Complainant’s two (2) request seeking “documents” are invalid under prevailing case law. MAG Entm’t, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005); Bent v. Stafford Police Dep’t, 381 N.J. Super. 30, 37 (App. Div. 2005); Feiler-Jampel v. Somerset Cnty. Prosecutor’s Office, GRC Complaint No. 2007-190 (Interim Order dated March 26, 2008); Schulz v. N.J. State Police, GRC Complaint No. 2014-390 (Interim Order dated July 28, 2015). Thus, the Custodian lawfully denied access to this portion of the subject requests because it is invalid. N.J.S.A. 47:1A-6. However, the usage of the term “representatives” directly under the Diamond umbrella is not overly broad. Therefore, the Custodian unlawfully asserted that this portion of the OPRA request was invalid. N.J.S.A. 47:1A-6.
2. The Custodian may have unlawfully denied access to additional records responsive to the Complainant’s March 3, 2022 OPRA request under the basis that they did not constitute “government records.” N.J.S.A. 47:1A-6. Specifically, the evidence of record supports that multiple contractors may have been making and maintaining responsive correspondence on behalf of the Township. Burnett v. Cnty. of Gloucester, 415 N.J. Super. 506, 517 (App. Div. 2010). The Custodian was thus required to obtain records from those contractors for review and disclosure unless an exemption applied. Meyers v. Borough of Fair Lawn, GRC Complaint No. 2005-127 (May 2006). Therefore, the Custodian is required to contact the above-referenced contractors, obtain potentially responsive records, and disclose them to the Complainant. If the Custodian believes the content of a particular record is exempt from disclosure, she must identify the specific lawful basis for any applicable redactions and disclose the remainder of the record. If the current Custodian does not locate any responsive records, she must certify to this fact, inclusive of a detailed explanation of her search.

3. **The Custodian shall comply with conclusion No. 2 above within ten (10) business days from receipt of the Council's Final Decision. In the circumstance where the records ordered for disclosure are not provided to the Complainant, the Council's Final Decision may be enforced in the Superior Court of New Jersey. N.J. Court Rules, R. 4:67-6; N.J.A.C. 5:105-2.9(c).**
4. The Custodian has borne her burden of proof that she lawfully denied access to the Complainant's March 28, 2022 OPRA request. Specifically, the Custodian initially responded, and the record reflects, that no records responsive to the OPRA request exist. N.J.S.A. 47:1A-6; see Pusterhofer v. N.J. Dep't of Educ., GRC Complaint No. 2005-49 (July 2005).

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 March 2024

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: April 1, 2024

**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
March 26, 2024 Council Meeting**

**Jennifer Dericks¹
Complainant**

GRC Complaint No. 2022-159

v.

**Sparta Township (Sussex)²
Custodial Agency**

Records Relevant to Complaint:

March 3, 2022 OPRA request: Electronic copies via e-mail of correspondence “including documents, e-mails, [and] messages” between Sparta Township (“Township”) Council members, Planning Board members/professionals, the Township manager, and several representatives from Diamond Chip Realty, LLC (“Diamond”) regarding the Diamond Chip Logistics Park warehouse project from February 2021 to present.³

March 28, 2022 OPRA request: Electronic copies via e-mail of correspondence “including documents, e-mails, [and] messages” between Township Council members, Planning Board members/professionals, the Township Manager, and several representatives from Diamond regarding the Diamond Chip Logistics Park warehouse project from January 2020 through January 2021.⁴

Custodian of Record: Kathleen Chambers⁵
Request Received by Custodian: March 3, 2022
Response Made by Custodian: March 16, 2022
GRC Complaint Received: April 27, 2022

Background⁶

Request and Response:

On March 3, 2022, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. On March 10, 2022, the Custodian

¹ legal representation listed on record.

² Represented by Timothy J. Profeta, Esq., of Laddey, Clark & Ryan, LLP (Sparta, NJ).

³ The Complainant sought additional records that are not at issue in this complaint.

⁴ Ibid.

⁵ Ms. Chambers retired on March 31, 2023.

⁶ 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.

responded in writing stating that she would need to extend the response time frame through April 7, 2022. On the same day, the Complainant responded asking for justification of the extension and whether the Custodian could disclose records on a rolling basis. On March 11, 2022, the Custodian noted that she would “look into” rolling disclosure but that some records were not “coming from the Clerk’s Office.”

On March 16, 2022, the Custodian responded in writing disclosing responsive correspondence, noting that any additional correspondence “solely between and among third-party contractors” are not considered government records for purposes of OPRA. N.J.S.A. 47:1A-1.1. The Custodian further stated that the portion of the OPRA request seeking correspondence from “representatives . . . including but not limited to” fails to identify records and is thus invalid. Burke v. Brandes, 429 N.J. Super. 169, 175 (App. Div. 2012). On March 28, 2022, the Complainant e-mailed the Custodian requesting that she reconsider the denial of correspondence, noting that she received legal advice that any records created on behalf of the Township and derived through the use of public funds are subject to disclosure under OPRA.

On March 28, 2022, the Complainant submitted a second (2nd) “revised” OPRA request to the Custodian seeking the above-mentioned records. On April 4, 2022, the Custodian responded in writing stating that she would need to extend the response time frame through April 11, 2022. On April 11, 2022, Planning Board Secretary Diana Katzenstein responded in writing on behalf of the Custodian stating that no responsive records exist.

Denial of Access Complaint:

On April 27, 2022, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant disputed the Custodian’s denial of access to both OPRA requests because the correspondence sought was created by professionals acting on behalf of the Township. The Complainant argued that the third-party contractors identified in the request included the Planning Board attorney, Township Engineer, Planning Board Engineer, and Township Planner. The Complainant argued that each of these individuals were hired, appointed, and paid with public funds to represent the Township’s interests. The Complainant stated that the GRC has recognized that the definition of a “public agency” included “[a]ll . . . *independent* county or local agencies and *authorities established by municipal or county governments.*” N.J.S.A. 47:1A-1.1.” (Emphasis added by Complainant). The Complainant also stated that the definition of a “government record” includes any record “made, maintained, or kept on file . . . or that has been received in the course of official business.” The Complainant argued that itemized billing records obtained through a separate OPRA request reflect the above professionals’ charges for creating and reviewing e-mails responsive to the subject OPRA request.

The Complainant stated that in Schuler v. Borough of Bloomsbury (Hunterdon), GRC Complaint No. 2007-151 (Interim Order dated December 19, 2007), the Council held that records maintained by a municipal engineer were subject to access because they were made and maintained on the agency’s behalf. Citing Meyers v. Borough of Fair Lawn, GRC Complaint No. 2005-127 (May 2006), Beck v. O’Hare, Docket No. MER-L-2411-07 (Law Div. 2007).

Statement of Information:⁷

On February 21, 2023, the Custodian filed a Statement of Information (“SOI”). The Custodian certified that she received the Complainant’s first (1st) OPRA request on March 3, 2022. The Custodian certified that her search included obtaining the requested correspondence from the appropriate Township officials. The Custodian certified that following an extension of time, she responded in writing on April 7, 2022 disclosing multiple records responsive records. The Custodian did not address the second (2nd) OPRA request as part of her SOI response.

The Custodian contended that the Complainant’s March 3, 2022 OPRA request failed to identify specific records to the extent that she identified “representatives” as a sender or recipient. N.J.S.A. 47:1A-1.1; Burke v. Brandes, 429 N.J. Super. 169, 175 (App. Div. 2012). The Custodian further argued that the request sought correspondence between third-party contractors and non-governmental employees, such as other contractors. The Custodian argued that this correspondence is not considered a “government record” for purposes of OPRA and is thus not kept on file or disclosable.

Analysis

Validity of Request

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 Entm’t, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 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.

⁷ On May 13, 2022, this complaint was referred to mediation. On January 24, 2023, this complaint was referred back to the GRC for adjudication.

[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);⁸ N.J. Builders Ass’n v. N.J. Council on Affordable Hous., 390 N.J. Super. 166, 180 (App. Div. 2007); Schuler, GRC 2007-151.

The validity of an OPRA request typically falls into three (3) categories. The first is a request that is overly broad (“any and all,” requests seeking “records” generically, *etc.*) and requires a custodian to conduct research. MAG, 375 N.J. Super. 534; Donato v. Twp. of Union, GRC Complaint No. 2005-182 (January 2007). The second is those requests seeking information or asking questions. See e.g. Rummel v. Cumberland Cnty. Bd. of Chosen Freeholders, GRC Complaint No. 2011-168 (December 2012). The final category is a request that is either not on an official OPRA request form or does not invoke OPRA. See e.g. Naples v. N.J. Motor Vehicle Comm’n, GRC Complaint No. 2008-97 (December 2008).

Regarding generic requests for “records,” the request at issue in MAG sought “all documents or records evidencing that the ABC sought, obtained or ordered revocation of a liquor license for the charge of selling alcoholic beverages to an intoxicated person in which such person, after leaving the licensed premises, was involved in a fatal auto accident” and “all documents or records evidencing that the ABC sought, obtained or ordered suspension of a liquor license exceeding 45 days for charges of lewd or immoral activity.” Id. at 539-540. The court noted that plaintiffs failed to include additional identifiers such as a case name or docket number. See also Steinhauer-Kula v. Twp. of Downe (Cumberland), GRC Complaint No. 2010-198 (March 2012) (holding that the complainant’s request item No. 2 seeking “[p]roof of submission” was invalid); Edwards v. Hous. Auth. of Plainfield (Union), GRC Complaint No. 2008-183 *et seq.* (Final Decision dated April 25, 2012) (accepting the Administrative Law Judge’s finding that a newspaper article attached to a subject OPRA request that was related to the records sought did not cure the deficiencies present in the request) Id. at 12-13.

Moreover, in Feiler-Jampel v. Somerset Cnty. Prosecutor’s Office, GRC Complaint No. 2007-190 (Interim Order dated March 26, 2008), the Council similarly held that a request seeking “[a]ny and all documents and evidence” relating to an investigation being conducted by the Somerset County Prosecutor’s Office was invalid, reasoning that:

[B]ecause the records requested comprise an entire SCPO file, the request is overbroad and of the nature of a blanket request for a class of various documents rather than a request for specific government records. Because OPRA does not require custodians to research files to discern which records may be responsive to a request, the Custodian had no legal duty to research the SCPO files to locate records potentially responsive to the Complainant’s request pursuant to the Superior Court’s decisions in [MAG], [Bent] and the Council’s decisions in Asarnow v. Department of Labor and Workforce Development, GRC Complaint

⁸ Affirmed on appeal regarding Bent v. Stafford Police Department, GRC Case No. 2004-78 (October 2004).

No. 2006-24 (May 2006) and Morgano v. Essex Cnty. Prosecutor's Office, GRC Complaint No. 2007-190 (February 2008).

[Id. See also Schulz v. N.J. State Police, GRC Complaint No. 2014-390 (Interim Order dated July 28, 2015) (holding that the portion of the request seeking “all documents” was overly broad and thus invalid).]

In the matter before the Council, each of the Complainant's OPRA requests sought correspondence “including documents . . .” between multiple parties and “representatives” from Diamond including several specific individuals. The Custodian responded to the March 3, 2022 OPRA request disclosing some records and noting that the portions of the request seeking “documents” and identifying “representatives” was invalid. The Custodian responded to the March 28, 2022 OPRA request simply stating that no records existed. The Custodian subsequently reiterated in the SOI that she believed a portion of the Complainant's request were invalid.

The GRC notes that although the Custodian only addressed the March 3, 2022 OPRA request in the SOI, it reviews both OPRA requests for validity due to their commonality. Regarding usage of the term “documents” in both OPRA requests, the GRC has routinely held that such a term is generic and fails to identify a specific type of record. As was the case in Schulz, and even though the requests go on to identify certain types of records, the portion thereof seeking “documents” is invalid. Regarding “representatives,” the Complainant both connected the term to Diamond and also identified several individuals thereafter. Thus, the GRC does not agree that the usage of such a term within the context of these OPRA requests is overly broad or invalid.

Accordingly, the portion of the Complainant's two (2) request seeking “documents” are invalid under prevailing case law. MAG, 375 N.J. Super. at 546; Bent, 381 N.J. Super. at 37; Feiler-Jampel, GRC 2007-190; Schulz, GRC 2014-390. Thus, the Custodian lawfully denied access to this portion of the subject requests because it is invalid. N.J.S.A. 47:1A-6. However, the usage of the term “representatives” directly under the Diamond umbrella is not overly broad. Therefore, the Custodian unlawfully asserted that this portion of the OPRA request was invalid. N.J.S.A. 47:1A-6.

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.

March 3, 2022 OPRA request

OPRA defines a “government record” as:

[A]ny paper, written or printed book, document, drawing, map, plan, photograph, microfilm, data processed or image processed document, information stored or

maintained electronically or by sound-recording or in a similar device, or any copy thereof, that has been *made, maintained or kept on file . . . or that has been received* in the course of his or its official business by any officer[.]

[Id. at N.J.S.A. 47:1A-1.1.]

In Burnett v. Cnty. of Gloucester, 415 N.J. Super. 506 (App. Div. 2010), the custodian claimed that records in possession of a third-party contractor executed on behalf of an agency are not subject to access. The Appellate Division reviewed the trial court’s ruling, interpreting Bent, 381 N.J. Super. 30 and holding that the defendant did not have to disclose the records responsive to the plaintiff’s OPRA request because the records were not in the defendant’s possession. The Appellate Division found that the court interpreted Bent, *supra*, too broadly. The Appellate Division held:

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 correspondence between the Township, several contractors, and Diamond between February 2021 and the date of the OPRA request. In response, the Custodian disclosed 99 pages of e-mails and attachments spanning May 2021 and onward. However, the Custodian also noted that any additional correspondence “solely between and among third-party contractors” are not considered government records for purposes of OPRA. N.J.S.A. 47:1A-1.1.

This complaint followed, wherein the Complainant argued that the Custodian had an obligation to obtain and disclose any records maintained by third party contractors, namely the Planning Board attorney, Township Engineer, Planning Board Engineer, and Township Planner. Meyers, GRC 2005-127. The Complainant also included invoices she received in response to the March 28, 2022 OPRA request containing entries identifying the reviewing and preparation of e-mails. In the SOI, the Custodian maintained that the definition of a “government record” did not include correspondence between third-party contractors and non-governmental employees, such as other contractors.

Initially, relevant precedential case law supports the position that a custodian is obligated to obtain and disclose records “made, maintained, or kept on file . . . or that has been received in the course of conducting official business . . .” by third parties contracting with the Township. Specifically, Meyers is clear that a record can be defined as a “government record” regardless of its physical location. Further, Burnett is clear that a custodian has an obligation to obtain from third parties those records made or maintained on their agency’s behalf.

Upon review, the Custodian disclosed e-mails obtained directly from the Planning Board's attorney and secretary. Those e-mails contain a mix of communications between Township employees, employees of CP Engineers, Harold E. Pellow & Associates, Inc., Harbor Consultants Group, and Diamond's engineering and law firm. As noted above, the Custodian has asserted that she was not required to disclose correspondence between third-party contractors and non-governmental employees. However, the Custodian did not provide any further explanation in the SOI on whether she was referring to the firms contracted by the Township. Notwithstanding, the Complainant included in the Denial of Access Complaint several invoices from CP Engineers, Harold E. Pellow & Associates, Inc., and Harbor Consultants Group.

The GRC's immediate conclusion based on the evidence of record before it is that the Custodian was referring to CP Engineers, Harold E. Pellow & Associates, Inc., and Harbor Consultants Group in the SOI. However, the evidence of record supports that these parties were communicating with Diamond on behalf of the Township and as part of their contracted professional services. Thus, both Burnett and Meyers required the Custodian to contact those contractors for potentially responsive records. Further, the GRC located several entries across the invoices where communications are listed but none were disclosed. For instances, the Planning Board attorney's June and August 2021 invoice notes that he reviewed and drafted several e-mails: many were not disclosed or addressed in the Custodian's response. Also, the June 2021 CP Engineers invoice notes "Concept Review and Feedback", suggesting that a communication may exist. All of the above taken together indicates that the potential that an unlawful denial of access to multiple responsive records may have occurred.

Accordingly, the Custodian may have unlawfully denied access to additional records responsive to the Complainant's March 3, 2022 OPRA request under the basis that they did not constitute "government records." N.J.S.A. 47:1A-6. Specifically, the evidence of record supports that multiple contractors may have been making and maintaining responsive correspondence on behalf of the Township. Burnett, 415 N.J. Super. at 517. The Custodian was thus required to obtain records from those contractors for review and disclosure unless an exemption applied. Meyers, GRC 2005-127. Therefore, the Custodian is required to contact the above-referenced contractors, obtain potentially responsive records, and disclose them to the Complainant. If the Custodian believes the content of a particular record is exempt from disclosure, she must identify the specific lawful basis for any applicable redactions and disclose the remainder of the record. If the current Custodian does not locate any responsive records, she must certify to this fact, inclusive of a detailed explanation of her search.

March 28, 2022 OPRA request

The Council has previously found that, where a custodian certified that no responsive records exist, no unlawful denial of access occurred. Pusterhofer v. N.J. Dep't of Educ., GRC Complaint No. 2005-49 (July 2005). Here, the Complainant's March 28, 2022 OPRA request sought correspondence between several Township parties, contractors, and Diamond about the warehouse project from January 2020 through January 2021. The Custodian responded stating that no records existed. The Custodian did not address this OPRA request in the SOI.

Notwithstanding that the Custodian did not address the March 28, 2022 OPRA request in the SOI, the GRC is persuaded that the evidence of record supports that no unlawful denial of access has occurred. The evidence of record appears to support that Diamond did not engage the Township and its contractors regarding the project until at least May 2021, when Diamond sought a “pre-application” meeting via a May 3, 2021 letter through its attorney. Also, there is no content in the disclosed e-mails that the GRC could locate indicating that any correspondence existed prior to the date of the letter. Further, the billing records wherein the Township’s contractors commenced in May 2021, which strengthens the position that no records falling within the January 2020 through January 2021 time frame existed. Finally, the Complainant has offered no evidence to support that any communications occurred prior to May 2021. Based on the forgoing, a conclusion in line with Pusterhofer is appropriate for the March 28, 2022 OPRA request.

Accordingly, the Custodian has borne her burden of proof that she lawfully denied access to the Complainant’s March 28, 2022 OPRA request. Specifically, the Custodian initially responded, and the record reflects, that no records responsive to the OPRA request exist. N.J.S.A. 47:1A-6; see Pusterhofer v. N.J. Dep’t of Educ., GRC Complaint No. 2005-49 (July 2005).

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that:

1. The portion of the Complainant’s two (2) request seeking “documents” are invalid under prevailing case law. MAG Entm’t, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005); Bent v. Stafford Police Dep’t, 381 N.J. Super. 30, 37 (App. Div. 2005); Feiler-Jampel v. Somerset Cnty. Prosecutor’s Office, GRC Complaint No. 2007-190 (Interim Order dated March 26, 2008); Schulz v. N.J. State Police, GRC Complaint No. 2014-390 (Interim Order dated July 28, 2015). Thus, the Custodian lawfully denied access to this portion of the subject requests because it is invalid. N.J.S.A. 47:1A-6. However, the usage of the term “representatives” directly under the Diamond umbrella is not overly broad. Therefore, the Custodian unlawfully asserted that this portion of the OPRA request was invalid. N.J.S.A. 47:1A-6.
2. The Custodian may have unlawfully denied access to additional records responsive to the Complainant’s March 3, 2022 OPRA request under the basis that they did not constitute “government records.” N.J.S.A. 47:1A-6. Specifically, the evidence of record supports that multiple contractors may have been making and maintaining responsive correspondence on behalf of the Township. Burnett v. Cnty. of Gloucester, 415 N.J. Super. 506, 517 (App. Div. 2010). The Custodian was thus required to obtain records from those contractors for review and disclosure unless an exemption applied. Meyers v. Borough of Fair Lawn, GRC Complaint No. 2005-127 (May 2006). Therefore, the Custodian is required to contact the above-referenced contractors, obtain potentially responsive records, and disclose them to the Complainant. If the Custodian believes the content of a particular record is exempt from disclosure, she must identify the specific lawful basis for any applicable redactions and disclose the remainder of the record. If the current Custodian does not locate any responsive records, she must certify to this fact, inclusive of a detailed explanation of her search.

3. **The Custodian shall comply with conclusion No. 2 above within ten (10) business days from receipt of the Council's Final Decision. In the circumstance where the records ordered for disclosure are not provided to the Complainant, the Council's Final Decision may be enforced in the Superior Court of New Jersey. N.J. Court Rules, R. 4:67-6; N.J.A.C. 5:105-2.9(c).**

4. The Custodian has borne her burden of proof that she lawfully denied access to the Complainant's March 28, 2022 OPRA request. Specifically, the Custodian initially responded, and the record reflects, that no records responsive to the OPRA request exist. N.J.S.A. 47:1A-6; see Pusterhofer v. N.J. Dep't of Educ., GRC Complaint No. 2005-49 (July 2005).

Prepared By: Frank F. Caruso
Executive Director

March 19, 2024