



State of New Jersey

DEPARTMENT OF COMMUNITY AFFAIRS
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TRENTON, NJ 08625-0819

PHILIP D. MURPHY
Governor

TAHESHA L. WAY
Lieutenant Governor

JACQUELYN A. SUÁREZ
Acting Commissioner

FINAL DECISION

January 30, 2024 Government Records Council Meeting

Paul Salerno
Complainant

Complaint No. 2022-191

v.

Township of Piscataway (Middlesex)
Custodian of Record

At the January 30, 2024 public meeting, the Government Records Council (“Council”) considered the January 23, 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 Custodian did not bear her burden of proof that she timely responded to the Complainant’s April 19, 2022 OPRA request and two (2) of the three (3) May 2, 2022 OPRA requests. N.J.S.A. 47:1A-6. As such, the Custodian’s failure to respond in writing to these three (3) OPRA requests either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days results in a “deemed” denial of the Complainant’s OPRA request pursuant to N.J.S.A. 47:1A-5(g), N.J.S.A. 47:1A-5(i), and Kelley v. Twp. of Rockaway, GRC Complaint No. 2007-11 (Interim Order October 31, 2007).
2. Ms. Mitch’s May 2, 2022 response to the Complainant’s April 19, 2022 OPRA request was insufficient because she failed to address each request item. N.J.S.A. 47:1A-5(g); see Paff v. Willingboro Bd. of Educ. (Burlington), GRC Complaint No. 2007-272 (May 2008).
3. The portions of the Complainant’s April 19, 2022 request seeking “information on how much the land was raised for the equipment shelter,” “[a]ll documented agreements . . . from hearings, resolution, and approval,” “[d]ocuments on proposed landscape buffers,” and “current contact information for site maintenance” for a 2005 construction project 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); Lagerkvist v. Office of the Governor, 443 N.J. Super. 230, 236-237 (App. Div. 2015); LaMantia v. Jamesburg Pub. Library (Middlesex), GRC Complaint No. 2008-140 (February 2009). Further, one (1) of the Complainant’s May 2, 2022 OPRA requests sought information and not an identifiable “government record.” Thus, the Custodian lawfully denied access to these requests because they were invalid. N.J.S.A. 47:1A-6.

4. The Custodian did not unlawfully deny access to any responsive records because her and Ms. Mitch certified, and the record reflects, that they disclosed all records that existed. Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (Interim Order dated April 28, 2010).

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 30th Day of January 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: February 5, 2024

**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
January 30, 2024 Council Meeting**

**Paul Salerno¹
Complainant**

GRC Complaint No. 2022-191

v.

**Township of Piscataway (Middlesex)²
Custodial Agency**

Records Relevant to Complaint:

April 19, 2022 OPRA request: Electronic copies via e-mail of “all documents” regarding the construction of Verizon’s electrical transmission tower at 394 William Street, including:

1. “Site development for equipment shelter and enclosed compound,” as well as information on “how much the land was raised” to accommodate the shelter.
2. “All documented agreements with neighbors from [4/8/2005, 8/25/2005, and 11/10/2005] hearings[;] resolutions[;] and approval regarding possible flooding due to wetlands being filled.”
3. New Jersey Department of Environmental Protection (“DEP”) permits.
4. “Current contact information for site maintenance.”

May 2, 2022 OPRA requests:

1. Electronic copies of “released plans for construction permit [No.] 20060732” from the Verizon site.
2. Electronic copies of the “[I]andscaping plan cited in [R]esolution 04-ZB-63” from the Verizon site.
3. Electronic copies of “site development for equipment shelter and enclosed compound,” as well as information on “how much the land was raised” to accommodate the shelter.

Custodian of Record: Melissa Seader

Request Received by Custodian: April 19, 2022; May 4, 2022

Response Made by Custodian: May 2, 2022; May 13, 2022

GRC Complaint Received: May 16, 2022

¹ No legal representation listed on record.

² Represented by Rajvir S. Groomer, Esq., of Hoagland, Longo, Moran, Dunst & Doukas, LLP (New Brunswick, NJ).

Background³

Request and Response:

On April 19, 2022, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. On May 2, 2022, the ninth (9th) business day after receipt of the OPRA request, Deputy Clerk Kelly Mitch responded in writing on the Custodian’s behalf disclosing a December 8, 2005 Zoning Board of Adjustment Resolution (“Resolution”), construction permit, and Certificate of Occupancy (“CO”). Ms. Mitch noted that the OPRA request was closed.

On May 2, 2022, the Complainant submitted three (3) OPRA requests to the Custodian seeking the above-mentioned records. On May 13, 2022, the seventh (7th) business day after receipt of each OPRA request, the Custodian responded in writing disclosing the landscape plan responsive to the Complainant’s May 2, 2022 OPRA request No. 2. The Custodian did not address the other OPRA requests.

Denial of Access Complaint:

On May 16, 2022, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant asserted he submitted his first (1st) OPRA request on April 19, 2022. The Complainant asserted that after the expiration of the statutory response time frame, he received an “incomplete response” on May 2, 2022. The Complainant argued that upon receipt of the response above, he submitted three (3) new OPRA requests on May 2, 2022. The Complainant asserted that the final day to respond was May 11, 2022; he received a response only addressing one of the three OPRA requests on May 13, 2022.

Additional Responses:

Purportedly on May 25, 2022, the Custodian responded in writing disclosing additional records comprising the CO, four (4) permits, three (3) letters, and a letter from the Township of Piscataway (“Township”) attaching the Resolution.

Statement of Information:

On June 21, 2022, the Custodian filed a Statement of Information (“SOI”). The Custodian certified that she received the Complainant’s three (3) May 2, 2022 OPRA requests on May 4, 2023. The Custodian certified that her search included forwarding the OPRA requests to Building & Permits, Planning, Zoning, and Engineering. The Custodian affirmed that those departments reviewed their records and responded accordingly. The Custodian certified that she purportedly responded in writing⁴ on May 13, 2022 disclosing a landscape plan.

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 Custodian nor Complainant included a copy of this correspondence in their filings.

The Custodian contended that the Township's failure to respond to two (2) of the May 2, 2022 OPRA requests was based on Ms. Mitch accidentally determining they were duplicates of the one to which she responded. The Custodian contended that had the Township been made aware of the error, they would have corrected same: the Complainant instead decided to file the instant complaint. The Custodian averred that upon receipt of the complaint, her office worked with the relevant departments to retrieve additional records. The Custodian affirmed that those records located were disclosed to the Complainant on May 25, 2022.⁵ The Custodian certified that the Township provided to the Complainant all existent records that were responsive to his three (3) OPRA requests.

Additional Submissions:

On August 24, 2023, the GRC sought additional information from the Custodian. Specifically, the GRC noted that the SOI did not address the Complainant's April 19, 2022 OPRA request. The GRC thus asked that the Custodian submit a certification answering the following questions:

1. On what day did the Township receive the April 19, 2022 OPRA request?
2. On what day(s) did the Township respond to the OPRA request? Please include supporting documentation showing the response.
3. Please provide a legal argument related to the Complainant's allegation on the lack of timeliness of the Custodian's response, if applicable.

The GRC requested that the certification be submitted by August 30, 2023.

On August 30, 2023, Ms. Mitch responded to the GRC's request for additional information.⁶ Ms. Mitch certified that the Township received the April 19, 2022 OPRA request on the same day. Ms. Mitch certified that she responded to same in writing on May 2, 2022 disclosing all responsive records that existed. Ms. Mitch asserted that the delayed response was due to understaffing coupled with an "unusually high number of OPRA requests being filed." Ms. Mitch asserted that as a result of these difficulties, the OPRA request was not processed until April 21, 2022 and the Township responded as fast as it was able.

Analysis

Timeliness

OPRA mandates that a custodian must either grant or deny access to requested records within seven (7) business days from receipt of said request. N.J.S.A. 47:1A-5(i). A custodian's failure to respond within the required seven (7) business days results in a "deemed" denial. Id. Further, a custodian's response, either granting or denying access, must be in writing pursuant to

⁵ The Custodian included copies of the records disclosed but did not attach the correspondence to the SOI.

⁶ Ms. Mitch certified that the Custodian was unavailable on vacation at the time of the GRC's request for additional information and assigned deadline date.

N.J.S.A. 47:1A-5(g).⁷ Thus, a custodian’s failure to respond in writing to a complainant’s OPRA request either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days results in a “deemed” denial of the complainant’s OPRA request pursuant to N.J.S.A. 47:1A-5(g), N.J.S.A. 47:1A-5(i), and Kelley v. Twp. of Rockaway, GRC Complaint No. 2007-11 (Interim Order October 31, 2007).

In the matter before the Council, the Complainant contended that the Custodian failed to timely respond to his April 19, 2022 OPRA request and did not respond at all to two (2) of his May 2, 2022 OPRA requests. In the SOI, the Custodian acknowledged that the Township made a mistake in not responding to two (2) of the May 2, 2022 OPRA requests because she believed them to be duplicates of the April 19, 2022 OPRA request. Further, in response to a request for additional information, Ms. Mitch certified that the Township’s response delay was the result of understaffing and an unusually high amount of OPRA requests. Notwithstanding, the Township has not denied their failure to timely respond and thus a “deemed” denial of access occurred.

Therefore, the Custodian did not bear her burden of proof that she timely responded to the Complainant’s April 19, 2022 OPRA request and two (2) of the three (3) May 2, 2022 OPRA requests. N.J.S.A. 47:1A-6. As such, the Custodian’s failure to respond in writing to these three (3) OPRA requests either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days results in a “deemed” denial of the Complainant’s OPRA request pursuant to N.J.S.A. 47:1A-5(g), N.J.S.A. 47:1A-5(i), and Kelley, GRC 2007-11.

Sufficiency of Response

OPRA provides that if a “custodian is unable to comply with a request for access, the custodian *shall indicate the specific basis therefor . . . on the request form and promptly return it to the requestor.*” N.J.S.A. 47:1A-5(g) (emphasis added). In Paff v. Willingboro Bd. of Educ. (Burlington), GRC Complaint No. 2007-272 (May 2008), the Council held that “. . . [t]he Custodian’s response was legally insufficient because he failed to respond to each request item individually. Therefore, the Custodian has violated N.J.S.A. 47:1A-5(g).” See also Lenchitz v. Pittsgrove Twp. (Salem), GRC Complaint No. 2012-265 (Interim Order dated August 27, 2013).

Here, Ms. Mitch responded to the Complainant’s April 19, 2022 OPRA request by providing three (3) records. However, the response e-mail failed to address each request item. Instead, Ms. Mitch provided records within the e-mail response, but did not indicate the request items to which said records were responsive. Further, Ms. Mitch did not indicate whether records responsive to the remaining items were denied or did not exist. The facts here are on point with those in Paff; thus, it follows there was an insufficient response in the instant complaint.

Therefore, Ms. Mitch’s May 2, 2022 response to the Complainant’s April 19, 2022 OPRA request was insufficient because she failed to address each request item. N.J.S.A. 47:1A-5(g); see Paff, GRC 2007-272.

⁷ A custodian’s written response either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days, even if said response is not on the agency’s official OPRA request form, is a valid response pursuant to OPRA.

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.

[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 v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009).

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).

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

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 Steinbauer-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 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. NJ 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).]

Additionally, in Lagerkvist v. Office of the Governor, 443 N.J. Super. 230, 236-237 (App. Div. 2015), the court held that plaintiff’s request was invalid because it required research. In reaching this conclusion, the court reasoned that:

The custodian in this case would have had to make a preliminary determination as to which travel records correlated to the governor and to his senior officials, past and present, over a span of years. The custodian would then have had to attempt to single out those which were third-party funded events. Next, he would have had to collect all documents corresponding to those events and search to ensure he had accumulated everything, including both paper and electronic correspondence. OPRA does not convert a custodian into a researcher.

[Id. at 237.]

Also, in LaMantia v. Jamesburg Pub. Library (Middlesex), GRC Complaint No. 2008-140 (February 2009), the complainant requested the number of Jamesburg residents that hold 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. See also Ohlson v. Twp. of Edison (Middlesex), GRC Complaint No. 2007-233 (August 2009).

Here, the Complainant's April 19, 2022 OPRA request sought in part "information on how much the land was raised for the equipment shelter," "[a]ll documented agreements . . . from hearings, resolution, and approval," "[d]ocuments on proposed landscape buffers," and "current contact information for site maintenance" for a 2005 construction project. One (1) of the May 2, 2022 OPRA requests similarly sought "information on how much the land was raised for the equipment shelter . . ." The Custodian disclosed several records between May 2, and 25, 2022, the Complainant subsequently filed this complaint asserting in part that he did not receive a complete response. In the SOI and subsequent response to a request for additional information, the Custodian and Ms. Mitch certified that all records responsive to the Complainant's OPRA requests were disclosed.

However, upon review of the items above, the GRC is compelled to find that those portions of the April 19, 2022 OPRA request and one (1) of the May 2, 2022 OPRA requests were invalid because they would require research and seek information. Specifically, the April 19, 2022 OPRA request sought "documents" requiring the type of research not contemplated under OPRA and "information." Lagerkvist, 443 N.J. Super. at 236-37; LaMantia, GRC 2008-140. Thus, the Custodian would be required to research various documents to find "agreements" that the applicant may have had with neighboring property owners or that identify "landscape buffers." Further, the Custodian would have to investigate its records to determine if "information" on acreage and contact information was available. To complicate matters, the Custodian would have to review records that were aged by roughly seventeen (17) years to ascertain those records or information. The May 2, 2022 request fares no better: it mimics the portion of the April 19, 2022 request seeking acreage information and is patently invalid under LaMantia.

Accordingly, the portions of the Complainant's April 19, 2022 request seeking "information on how much the land was raised for the equipment shelter," "[a]ll documented agreements . . . from hearings, resolution, and approval," "[d]ocuments on proposed landscape buffers," and "current contact information for site maintenance" for a 2005 construction project are invalid under prevailing case law. MAG, 375 N.J. Super. at 546; Bent, 381 N.J. Super. at 37; Lagerkvist, 443 N.J. Super. at 236-37; LaMantia, GRC 2008-140. Further, one (1) of the Complainant's May 2, 2022 OPRA requests sought information and not an identifiable "government record." Thus, the Custodian lawfully denied access to these requests because they were 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.

In Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (Interim Order dated April 28, 2010), the Council found that the custodian did not unlawfully deny access to the requested records based on the custodian’s certification that all such records were provided to the complainant. The Council held that the custodian’s certification, in addition to the lack of refuting evidence from the complainant, was sufficient to meet the custodian’s burden of proof. See also Burns, GRC 2005-68; Holland v. Rowan Univ., GRC Complaint No. 2014-63, *et seq.* (March 2015).

Here, the Complainant sought access to records related to a construction project in 2005. On May 2, and 25, 2022 respectively, the Custodian and Ms. Mitch disclosed several records comprising of a landscape plan, resolution, multiple permits, a CO, and several letters regarding the project. The Complainant subsequently filed this complaint arguing that the Custodian provided an incomplete response. In the SOI, the Custodian certified that all records responsive to the May 2, 2022 OPRA requests were disclosed. In response to the request for additional information, Ms. Mitch also certified that all records that existed were disclosed.

Having addressed the invalid requests, and based on the remaining active requests, the GRC finds sufficient evidence in the record to indicate that the Custodian disclosed all records that existed, and no further action is required. In reaching this conclusion, the GRC is satisfied that the Custodian performed an adequate search for records relevant to a project that occurred seventeen (17) years prior to the OPRA request. Also compelling is a statement in the December 12, 2005 letter from the Township to the applicant’s counsel attaching the Resolution that:

[t]he Township shall keep all exhibits for at least 60 days from the date of memorialization. Any exhibits that are *not claimed* will be *discarded ninety (90) days* from the date the resolution has been memorialized.

[Id.]

Such a statement heavily suggests that any exhibits beyond records already disclosed were jettisoned long ago. Further, the Complainant requests insinuate that DEP was involved, but there is no evidence in the record to conclude that that agency was involved in the project. Based on this, there is a lack of competent, credible evidence to refute either the Custodian or Ms. Mitch’s certifications.

Therefore, the Custodian did not unlawfully deny access to any responsive records because her and Ms. Mitch certified, and the record reflects, that they disclosed all records that existed. Danis, GRC 2009-156, *et seq.*

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that:

1. The Custodian did not bear her burden of proof that she timely responded to the Complainant's April 19, 2022 OPRA request and two (2) of the three (3) May 2, 2022 OPRA requests. N.J.S.A. 47:1A-6. As such, the Custodian's failure to respond in writing to these three (3) OPRA requests either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days results in a "deemed" denial of the Complainant's OPRA request pursuant to N.J.S.A. 47:1A-5(g), N.J.S.A. 47:1A-5(i), and Kelley v. Twp. of Rockaway, GRC Complaint No. 2007-11 (Interim Order October 31, 2007).
2. Ms. Mitch's May 2, 2022 response to the Complainant's April 19, 2022 OPRA request was insufficient because she failed to address each request item. N.J.S.A. 47:1A-5(g); see Paff v. Willingboro Bd. of Educ. (Burlington), GRC Complaint No. 2007-272 (May 2008).
3. The portions of the Complainant's April 19, 2022 request seeking "information on how much the land was raised for the equipment shelter," "[a]ll documented agreements . . . from hearings, resolution, and approval," "[d]ocuments on proposed landscape buffers," and "current contact information for site maintenance" for a 2005 construction project 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); Lagerkvist v. Office of the Governor, 443 N.J. Super. 230, 236-237 (App. Div. 2015); LaMantia v. Jamesburg Pub. Library (Middlesex), GRC Complaint No. 2008-140 (February 2009). Further, one (1) of the Complainant's May 2, 2022 OPRA requests sought information and not an identifiable "government record." Thus, the Custodian lawfully denied access to these requests because they were invalid. N.J.S.A. 47:1A-6.
4. The Custodian did not unlawfully deny access to any responsive records because her and Ms. Mitch certified, and the record reflects, that they disclosed all records that existed. Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (Interim Order dated April 28, 2010).

Prepared By: Frank F. Caruso
Executive Director

January 23, 2024