



## State of New Jersey

DEPARTMENT OF COMMUNITY AFFAIRS  
101 SOUTH BROAD STREET  
PO Box 819  
TRENTON, NJ 08625-0819

PHILIP D. MURPHY  
Governor

TAHESHA L. WAY  
Lieutenant Governor

JACQUELYN A. SUÁREZ  
Acting Commissioner

### FINAL DECISION

#### March 26, 2024 Government Records Council Meeting

Deepak Kumar  
Complainant

Complaint No. 2023-308

v.

Moorestown Township (Burlington)  
Custodian of Record

At the March 26, 2024 public meeting, the Government Records Council (“Council”) considered the March 19, 2024 Supplemental 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 Complainant has failed to establish in his request for reconsideration of the Council’s January 30, 2024 Administrative Disposition that either 1) the Council’s decision is based upon a “palpably incorrect or irrational basis;” or 2) it is obvious that the Council did not consider the significance of probative, competent evidence. The Complainant failed to establish that the complaint should be reconsidered based on mistake, fraud, and illegality. The Complainant has also failed to show that the Council acted arbitrarily, capriciously or unreasonably. Specifically, the Complainant failed to demonstrate that his arguments were unfairly distorted or unaddressed. Thus, the Complainant’s request for reconsideration should be denied. Cummings v. Bahr, 295 N.J. Super. 374 (App. Div. 1996); D’Atria v. D’Atria, 242 N.J. Super. 392 (Ch. Div. 1990); In The Matter Of The Petition Of Comcast Cablevision Of S. Jersey, Inc. For A Renewal Certificate Of Approval To Continue To Construct, Operate And Maintain A Cable Tel. Sys. In The City Of Atl. City, Cnty. Of Atl., State Of N.J., 2003 N.J. PUC LEXIS 438, 5-6 (N.J. PUC 2003).

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 26<sup>th</sup> 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**

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

**Deepak Kumar<sup>1</sup>  
Complainant**

**GRC Complaint No. 2023-308**

v.

**Moorestown Township (Burlington)<sup>2</sup>  
Custodial Agency**

**Records Relevant to Complaint:**

**Custodian of Record:** Patricia Hunt  
**Request Received by Custodian:** September 6, 2023  
**Response Made by Custodian:** September 9, 2023  
**GRC Complaint Received:** December 26, 2023

**Background**

**January 30, 2024 Council Meeting:**

At its January 30, 2024 public meeting, the Council considered the January 23, 2024 Administrative Disposition and all related documentation submitted by the parties. The Council voted unanimously to adopt the entirety of said disposition. The Council, therefore, found that:

The Complainant verified the instant complaint on December 20, 2023, forty-three (43) days after the last day of the expiration of the sixty (60) calendar day statute of limitation, alleging he was denied access to his OPRA request on September 8, 2023. The Complainant asserted in his motion that the Custodian did not inform him of the statute of limitation in her response to his request, and that the response provided an outdated e-mail address for the Government Records Council. However, the above reasons are insufficient good cause to permit the complaint to proceed out of time. The Complainant's remaining reasons reference other state or federal laws that are not relevant here. Therefore, this complaint shall be dismissed.

**Procedural History:**

On February 1, 2024, the Council distributed its Administrative Disposition to all parties. On February 9, 2024, the Complainant filed a request for reconsideration of the Council's January

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<sup>1</sup> No legal representation listed on record.

<sup>2</sup> No legal representation listed on record.

30, 2024 Administrative Disposition based on a mistake, fraud, and illegality. The Complainant first asserted that the GRC omitted or distorted facts presented in the complaint. The Complainant next argued that the Council did not perform its due diligence when reviewing and adjudicating the Administrative Disposition. The Complainant then suggested a discriminatory bias against him by the GRC and the Custodian.

## Analysis

### Reconsideration

Pursuant to N.J.A.C. 5:105-2.10, parties may file a request for a reconsideration of any decision rendered by the Council within ten (10) business days following receipt of a Council decision. Requests must be in writing, delivered to the Council and served on all parties. Parties must file any objection to the request for reconsideration within ten (10) business days following receipt of the request. The Council will provide all parties with written notification of its determination regarding the request for reconsideration. N.J.A.C. 5:105-2.10(a) – (e).

In the matter before the Council, the Complainant filed the request for reconsideration of the Council’s Administrative Disposition dated January 30, 2024 on February 9, 2024, six (6) days from the issuance of the Council’s Administrative Disposition.

Applicable case law holds that:

“A party should not seek reconsideration merely based upon dissatisfaction with a decision.” D’Atria v. D’Atria, 242 N.J. Super. 392, 401 (Ch. Div. 1990). Rather, reconsideration is reserved for those cases where (1) the decision is based upon a “palpably incorrect or irrational basis;” or (2) it is obvious that the finder of fact did not consider, or failed to appreciate, the significance of probative, competent evidence. *E.g.*, Cummings v. Bahr, 295 N.J. Super. 374, 384 (App. Div. 1996). The moving party must show that the court acted in an arbitrary, capricious or unreasonable manner. D’Atria, . . . 242 N.J. Super. at 401. “Although it is an overstatement to say that a decision is not arbitrary, capricious, or unreasonable whenever a court can review the reasons stated for the decision without a loud guffaw or involuntary gasp, it is not much of an overstatement.” Ibid.

[In The Matter Of The Petition Of Comcast Cablevision Of S. Jersey, Inc. For A Renewal Certificate Of Approval To Continue To Construct, Operate And Maintain A Cable Tel. Sys. In The City Of Atl. City, Cnty. Of Atl., State Of N.J., 2003 N.J. PUC LEXIS 438, 5-6 (N.J. PUC 2003).]

Upon review, the GRC is persuaded that the Complainant’s request for reconsideration should be denied. First, no relevant arguments were omitted or distorted from the Complainant’s motion to file within time. The primary arguments raised were his lack of knowledge of the time limit, and the outdated e-mail address contained in the Custodian’s OPRA request form; both were addressed in the Administrative Disposition. The remaining arguments were challenges against the Custodian’s response to his OPRA request and had no bearing on the application of the GRC’s

statute of limitations. Next, the Complainant's perceptions of the Council's adjudicatory process are not a basis for reconsidering the Administrative Disposition. Lastly, the Complainant's allegations of discrimination and bias are equally as nonprobative as the aforementioned claims.

As the moving party, the Complainant was required to establish either of the necessary criteria set forth above: either 1) the Council's decision is based upon a "palpably incorrect or irrational basis;" or 2) it is obvious that the Council did not consider the significance of probative, competent evidence. See Cummings, 295 N.J. Super. at 384. The Complainant failed to establish that the complaint should be reconsidered based on mistake, fraud, and illegality. The Complainant has also failed to show that the Council acted arbitrarily, capriciously or unreasonably. See D'Atria, 242 N.J. Super. at 401. Specifically, the Complainant failed to demonstrate that his arguments were unfairly distorted or unaddressed. Thus, the Complainant's request for reconsideration should be denied. Cummings, 295 N.J. Super. at 384; D'Atria, 242 N.J. Super. at 401; Comcast, 2003 N.J. PUC at 5-6.

### **Conclusions and Recommendations**

The Executive Director respectfully recommends the Council find that the Complainant has failed to establish in his request for reconsideration of the Council's January 30, 2024 Administrative Disposition that either 1) the Council's decision is based upon a "palpably incorrect or irrational basis;" or 2) it is obvious that the Council did not consider the significance of probative, competent evidence. The Complainant failed to establish that the complaint should be reconsidered based on mistake, fraud, and illegality. The Complainant has also failed to show that the Council acted arbitrarily, capriciously or unreasonably. Specifically, the Complainant failed to demonstrate that his arguments were unfairly distorted or unaddressed. Thus, the Complainant's request for reconsideration should be denied. Cummings v. Bahr, 295 N.J. Super. 374 (App. Div. 1996); D'Atria v. D'Atria, 242 N.J. Super. 392 (Ch. Div. 1990); In The Matter Of The Petition Of Comcast Cablevision Of S. Jersey, Inc. For A Renewal Certificate Of Approval To Continue To Construct, Operate And Maintain A Cable Tel. Sys. In The City Of Atl. City, Cnty. Of Atl., State Of N.J., 2003 N.J. PUC LEXIS 438, 5-6 (N.J. PUC 2003).

Prepared By: Samuel A. Rosado  
Staff Attorney

March 19, 2024



**NEW JERSEY GOVERNMENT RECORDS COUNCIL**  
**Administrative Complaint Disposition – Motion to File Within Time Denied**

**Deepak Kumar**  
**Complainant**

**GRC Complaint No. 2023-308**

v.

**Moorestown Township (Burlington)**  
**Custodial Agency**

**Custodian of Record:** Patricia Hunt  
**Request Received by Custodian:** September 6, 2023  
**GRC Complaint Received:** December 26, 2023

**Complaint Disposition:** The Complainant verified the instant complaint on December 20, 2023, forty-three (43) days after the last day of the expiration of the sixty (60) calendar day statute of limitation, alleging he was denied access to his OPRA request on September 8, 2023. The Complainant asserted in his motion that the Custodian did not inform him of the statute of limitation in her response to his request, and that the response provided an outdated e-mail address for the Government Records Council. However, the above reasons are insufficient good cause to permit the complaint to proceed out of time. The Complainant’s remaining reasons reference other state or federal laws that are not relevant here. Therefore, this complaint shall be dismissed.

**Applicable OPRA Provision:** “Any requestor who is denied access, in whole or in part, to a government record by a custodian, at the option of the requestor, may file a complaint with the Council pursuant to N.J.S.A. 47:1A-6. Such filing shall be made within 60-calendar days or, if the last day of the period is a Saturday, Sunday, or legal holiday, within the next business day, pursuant to N.J.A.C. 1:1-1.4, after the requestor receives a response from the custodian that grants or denies access or, if the custodian does not respond within seven business days of the request, within 60-calendar days following the expiration of such seven-business-day period, whichever is later, unless accompanied by a motion to file within time, showing good cause.” N.J.A.C. 5:105-2.1(a).

**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 30, 2024

Prepared By: Samuel A. Rosado  
Staff Attorney

Date: January 23, 2024

**Distribution Date: February 1, 2024**