



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
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CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

CHARLES A. RICHMAN
Commissioner

NOTICE OF MEETING
Government Records Council
June 28, 2016

Pursuant to the Open Public Meetings Act, notice is hereby given that the Government Records Council will hold a regular meeting, at which formal action may be taken, commencing at 1:30 p.m., Tuesday, June 28, 2016 at the Department of Community Affairs (“DCA”) offices located at 101 South Broad Street in Trenton, New Jersey.

The agenda, to the extent presently known, is listed below. The public session and consideration of cases is expected to commence at 1:30 p.m. in Room 129 of the DCA.

I. Public Session:

Call to Order
Pledge of Allegiance
Meeting Notice
Roll Call

II. Executive Director’s Report

III. Closed Session

- Gregory W. Kasko v. Town of Westfield (Union) (2014-389)

IV. Approval of Minutes of Previous Meetings:

May 24, 2016 Open Session Meeting Minutes
May 24, 2016 Closed Session Meeting Minutes

V. New Business – Cases Scheduled for Consent Agenda Administrative Complaint Disposition Adjudication *

An “Administrative Complaint Disposition” means a decision by the Council as to whether to accept or reject the Executive Director’s recommendation of dismissal based on jurisdictional, procedural or other defects of the complaint. A short summary of the Executive Director’s recommended reason for the Administrative Disposition is under each complaint below.

A. Administrative Disposition Adjudications with Recusals (Consent Agenda): None



B. Administrative Disposition Adjudications with no Recusals (Consent Agenda):

1. Salvatore J. Moretti v. Borough of Paramus (Bergen) (2015-405)
 - The Complaint is unripe for adjudication.
2. Benjamin Aaron Levy v. Rutgers University (2016-24)
 - The parties settled the matter through mediation.

C. Administrative Disposition Uncontested, Voluntary Withdrawals by Complainant (No Adjudication of the Council is Required):

1. Christopher J. Randazzo v. NJ Civil Service Commission (2016-147)

VI. New Business – Cases Scheduled for Individual Complaint Adjudication

The Executive Director's recommended action is under each complaint below.

A. Individual Complaint Adjudications with Recusals:

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| <ol style="list-style-type: none">1. Michael Doss v. Borough of Bogota (Bergen) (2013-315) (SR Recusal)2. Michael Doss v. Borough of Bogota (Bergen) (2014-152) (SR Recusal) Consolidated |
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- The Council tabled the matter due to a lack of a quorum.

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| <ol style="list-style-type: none">3. Shawn G. Hopkins v. Monmouth County Board of Taxation (2014-1) (RBT Recusal)4. Shawn G. Hopkins v. Sussex County Board of Taxation (2014-10) (RBT Recusal)5. Shawn G. Hopkins v. Morris County Board of Taxation (2014-11) (RBT and SR Recusals) Consolidated |
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- The Council tabled the matter due to lack of a quorum.

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| <ol style="list-style-type: none">6. Robert A. Verry v. Borough of South Bound Brook (Somerset) (2015-57) (SR Recusal)7. Robert A. Verry v. Borough of South Bound Brook (Somerset) (2015-60) (SR Recusal)8. Robert A. Verry v. Borough of South Bound Brook (Somerset) (2015-70) (SR Recusal) Consolidated |
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- The Council tabled the matter due to lack of a quorum.

9. Robert A. Verry v. Borough of South Bound Brook (Somerset) (2015-147) **(SR Recusal)**

- The Council tabled the matter due to lack of a quorum.

B. Individual Complaint Adjudications with no Recusals:

1. J.C. McCormack v. NJ Department of Treasury (2013-357)
 - The Custodian complied with the Council's Interim Order.
 - There is no knowing and willful violation.
2. King Victorious v. NJ Department of Corrections (2014-71)
 - The Custodian has established valid grounds for reconsideration.
 - The Council should therefore rescind its order requiring the Custodian to disclose the statements.
 - There is no need for a knowing and willful analysis.

3. J.C. McCormack v. NJ Department of Treasury (2014-336)
 - The Complainant withdrew the complaint subsequent to the Council’s Interim Order.

4. Harry Louis Hersh v. Lakewood Board of Education (Ocean) (2014-357)
 - The Custodian’s failure to respond in writing to part of the OPRA request results in a deemed denial.
 - The Custodian did not unlawfully deny access to the requested records that were filed with the New Jersey Department of Education (“DOE”) in 2012 because the Custodian disclosed the records in a timely manner.
 - The Custodian did not unlawfully deny access to the requested records that were filed with the DOE in 2011, 2013, and 2014 because the Custodian certified that no records exist, and the Complainant provided no competent, credible evidence to refute the Custodian’s certification.
 - There is no knowing and willful violation.

5. Thomas Vandergrift v. Pennsauken Public Schools (Camden) (2014-373)
 - The Custodian has proven that a special service charge is warranted, but \$80.00 of the \$844.00 total charge appears unreasonable.
 - The Custodian must therefore refund \$80.00.
 - The knowing and willful and prevailing party analyses are deferred pending the Custodian’s compliance.

6. Gregory W. Kasko v. Town of Westfield (Union) (2014-389)
 - The Custodian complied with the Council’s Interim Order.
 - The Custodian must comply with the findings of the Council’s *in camera* examination.
 - The knowing and willful analysis is deferred pending the Custodian’s compliance.

7. James G. Savage, Jr. (o/b/o Lacey Township Board of Education) v. NJ Schools Insurance Group (Ocean) (2015-3)
 - On the advice of legal counsel, the GRC should table the complaint.

8. Anonymous v. Burlington Township (Burlington) (2015-107)
 - The issue of whether the Custodian knowingly and willfully denied access should be held in abeyance until the Appellate Division has ruled on the consolidated appeal in Scheeler, Jr. v. Office of the Governor, et al, A-1236-14T3.
 - The knowing and willful analysis is deferred pending the Custodian’s compliance.

- 9. Klarida Papajani v. NJ Turnpike Authority (2015-122)
- 10. Klarida Papajani v. NJ Turnpike Authority (2015-198) **Consolidated**
 - The agency did not timely respond to the OPRA requests, thus resulting in a “deemed” denial.
 - The Custodian has proven that a special service charge was both reasonable and warranted.
 - The Complainant shall either deliver payment of \$2,065.80 to the Custodian or provide the Custodian a statement declining to pay the special service charge.

Should the Complainant pay the fee, the Custodian must disclose the records within three business days from receipt of the payment.

- The Custodian shall provide the GRC certified confirmation of compliance within eight business days with respect to the Custodian's willingness or refusal to pay the fee.
- The GRC declines to order additional disclosure because the GRC is satisfied that the Custodian has disclosed all responsive records.
- The knowing and willful analysis is deferred pending the Custodian's compliance.

11. Larry S. Loigman, Esq. v. NJ Division of Consumer Affairs (2015-168)

- The Custodian timely responded. Thus, there is no "deemed" denial.

12. Ruth Paez v. Borough of Pompton Lakes (Passaic) (2015-193)

- The Custodian complied with the Interim Order.
- There is no knowing and willful violation.

13. Luis F. Rodriguez v. Kean University (2015-203)

- The Custodian's failure to respond immediately in writing to immediate access records results in a deemed denial under N.J.S.A. 47:1A-5(e).
- The Custodian's failure to respond timely to the OPRA request, based on unwarranted and unsubstantiated extensions, results in a deemed denial.
- The GRC sees no need to order disclosure because the Custodian ultimately released responsive records.
- There is no knowing and willful violation.

14. Jeffrey W. Sauter v. Township of Colts Neck (Monmouth) (2015-206)

- The Custodian's response was insufficient because she failed to provide a date certain by which she would respond.
- There was no unlawful denial of access because the Custodian certified that no responsive records exist, and the Complainant provided no competent, credible evidence to refute the Custodian's certification.
- There is no knowing and willful violation.

15. Joyce Fern v. NJ Department of Environmental Protection (2015-215)

- The OPRA request was invalid.

16. Paul J. Miola v. Borough of Roseland (Essex) (2015-251)

- The Complainant verified his complaint prior to the expiry of the statutory deadline. Therefore, the complaint is materially defective and must be dismissed.

17. Larry Fleming v. NJ Department of Corrections (2015-257)

- The Custodian lawfully denied access consistent with N.J.S.A. 30:1B-6(g) and other applicable law.

18. Elonzio Odums v. NJ Department of Corrections (2015-261)

- A portion of the request was invalid, as it sought information instead of an identifiable government record.

- The Custodian lawfully denied access to the Daily Activity Report because such denial is consistent with state regulations.
- The Custodian lawfully denied access to the remainder of the requested information because the Custodian certified that no such records exist, and the Complainant provided no competent, credible evidence to refute the Custodian’s certification.

19. Frank J. Campisi v. City of Millville (Cumberland) (2015-386)

- The Custodian timely responded, but the response was insufficient because it failed to provide a date certain upon which responsive records would be provided.
- There was no unlawful denial of access, because the Custodian certified that she had provided all responsive records, and the Complainant provided no competent, credible evidence to refute the certification.
- There is no knowing and willful violation.

20. David Herron v. Montclair Public Schools (Essex) (2016-76)

21. David Herron v. Montclair Public Schools (Essex) (2016-77)

22. David Herron v. Montclair Public Schools (Essex) (2016-78) **Consolidated**

- The Custodian’s response was insufficient because he failed to respond in writing to each requested item individually.
- The Custodian’s failure to respond immediately in writing to immediate access documents results in a “deemed” denial.
- The GRC declines to order disclosure because the Custodian certified that he provided the Complainant with all responsive records.
- There is no knowing and willful violation.

VII. Court Decisions of GRC Complaints on Appeal: None.

VIII. Complaints Adjudicated in NJ Superior Court & NJ Supreme Court: None.

IX. Complaints Adjudicated in US District Court:

- Severino v. Middlesex Cnty., 2016 U.S. Dist. LEXIS 67697 (May 24, 2016)

X. Public Comment:

The public comment period is limited to providing an opportunity for speakers to present suggestions, views and comments relevant to the Council’s functions and responsibilities. In the interest of time, speakers may be limited to **five (5) minutes**. Speakers shall not be permitted to make oral or written testimony regarding pending or scheduled adjudications.*

XI. Adjournment

*Neither attorneys nor other representatives of the parties are required to attend this meeting nor will they be permitted to make oral or written comment during the adjudication.