



NEW JERSEY FOUNDATION

FOR OPEN GOVERNMENT

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Via E-mail only to grc@dca.state.nj.us

Joseph D. Glover, Executive Director
Government Records Council
01 South Broad Street
Trenton, NJ 08625

Dear Executive Director Glover:

Attached is a copy of Bayonne's response to a records request submitted by John Paff which sought lawsuits and settlement agreements from two actions in which the City of Bayonne was a defendant. As you can see, Bayonne, "due to the temporary influx of OPRA requests and limited municipal resources, and due to the nature and extent of the record" Mr. Paff seeks, has asked him to "please allow two weeks" for a response to his request.

Bayonne's response concerns us. While we agree that extensions beyond the statutory seven business-day period are sometimes needed, we have always understood that extension requests must be justified by a specific reason. For example Page 17 of the Handbook for Records Custodians states: "Custodians may seek extensions of time beyond the seven (7) business day deadline for legitimate reasons (e.g. the record is in use or in storage). N.J.S.A. 47:1A-5.i."

The only other section of OPRA that we can find that justifies delaying a response is when a request "would substantially disrupt agency operations." N.J.S.A. 47:1A-5.g. In such a case, OPRA requires the custodian to attempt "to reach a

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reasonable solution with the requestor that accommodates the interests of the requestor and the agency."

While OPRA allows extensions to the seven business-day response period, such extensions are supposed to be atypical and grounded in a specifics rather than generalities. Here, Bayonne merely alleges a "temporary influx" of requests, "limited municipal resources" and "the nature and extent of" the records that Mr. Paff requested. This is so general that the same boilerplate response could be employed to justify an extension for any and all requests that Bayonne receives.

OPRA's goal of making nonexempt records "readily accessible" to the public is fostered by the specific, enforceable and reasonably prompt time period embodied within N.J.S.A. 47:1A-5(i) . Allowing this seven business-day time period to be diluted, as Bayonne's response appears to attempt, undermines OPRA's public policy goals and does violence to the public's right to know.

We ask that you counsel Bayonne's records custodian that generalized responses, such as the one provided to Mr. Paff, are not acceptable. We also ask that you consider addressing this matter in the GRC's publications and training opportunities.

Thank you very much for your kind attention to this matter. We look forward to your reply.

Sincerely,

Walter M. Luers

Walter M. Luers, Esq.
President