



NEW JERSEY FOUNDATION
FOR OPEN GOVERNMENT

NEWS RELEASE

July 27, 2009

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**Court finds New Jersey Government Records Council in violation
of Open Public Records Act**

New Jersey Foundation for Open Government challenged GRC's withholding of email addresses of individuals filing OPRA complaints with the GRC

Newark – The New Jersey Foundation for Open Government (NJFOG) announced today that it has won a lawsuit against the New Jersey Government Records Council (GRC) for violating the Open Public Records Act (OPRA), the very statute the GRC was created to enforce.

NJFOG had requested from the GRC complaint acknowledgement notices that the GRC emails to complainants. In response, the GRC had withheld the individual complainants' email addresses. On July 17, Mercer County Superior Court Judge Douglas H. Hurd, J.S.C. "ordered that the defendant GRC grants Plaintiff NJFOG access in unredacted form to the requested GRC acknowledgement notices. GRC shall comply with this Order by August 14, 2009." See attached Order.

According to NJFOG's attorney Richard Gutman, Judge Hurd indicated in court on July 17 that he believed that the email addresses on the acknowledgment notices were not confidential because they

were taken from the GRC complaints, all portions of which are public quasi-judicial filings, unless filed under seal.

NJFOG President Ron Miskoff said, “This case is important because the GRC was trying to protect itself from accountability to the public. It’s ironic that the GRC, which was established to help requestors challenge improper denials of government records, violated the very law it was created to enforce.”

NJFOG (www.njfog.org) is a non-profit, non-partisan coalition of individuals and civic, community and journalistic organizations founded in January 2001 that advocates for open government and helped win unanimous legislative approval for OPRA and the creation of the GRC in 2002.

On March 18, 2009, NJFOG requested copies of all the emails sent by the GRC since Jan. 1, 2009 to record requesters acknowledging receipt of their complaints concerning denial of record requests by state or local government officials. On March 27 the GRC provided copies of the 69 emails but redacted from each the email address of the individual complainant on the grounds of privacy, although the GRC has in the past routinely supplied such email addresses to NJFOG and others

Miskoff said NJFOG’s was seeking the email addresses for three reasons: first, to offer general assistance or support where needed since many requesters do not have lawyers and are filing their complaints on their own; second, to seek potential members of NJFOG to help with its open government work; and, third, as a way to evaluate and monitor the GRC’s performance in handling individual complaints.

NJFOG’s brief argued that the GRC must release the email addresses because they are part of a quasi-judicial procedure in which such information, like other court records, cannot be kept from the public unless individually sealed by a judge for specific reasons.

In addition, withholding the emails violates OPRA because email addresses are not among the personal information specified by the Legislature and the Governor as requiring privacy protection. Under OPRA the specific personal information in government records that agencies are directed to keep confidential includes only social security numbers, credit card numbers, unlisted telephone numbers and driver license numbers.

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