

March 6, 2023

Government Records Council
c/o Samuel A. Rosado, Esq. Samuel.Rosado@dca.nj.gov
101 South Broad Street
PO Box 819
Trenton, New Jersey 08625-0819

Re: Caroline Rankovic (Twombly) v. City of Cape May,
GRC Complaint No. 2023-3

Dear Mr. Rosado:

This office represents the City of Cape May. Please consider this as a Letter of Representation pursuant to N.J.A.C. 5:105-1.3 & 2.2(a). In addition, please accept this letter brief as a supplement to the City's Statement of Information filed in response to Ms. Rankovic's Denial of Access Complaint in the above referenced matter.

On January 21, 2023, the complainant submitted a request to the Cape May City Clerk at "cityclerk@capemaycity.com". The January 21, 2023 request requests (1) *"Emails between Superintendent and BOE CMES 11/1/2022-12/17/2022"* and further indicates *"The mayor and school superintendent both are aware of a civil rights issue taking place in the Cape May elementary school. I am requesting written correspondence between both public officials within the aforementioned timeline and my OPRA request has not been answered and is long overdue, please advise."* The request includes a link to opmachine.com referencing a prior request.

On January 26, 2023, Deputy City Clerk Emily Dillon responded to the complainant requesting clarification of the public officials to which the complainant was seeking records.

The City of Cape May (the City) and the Cape May City Board of Education (CMBOE) are distinct and separate public agencies. Accordingly, in an effort to determine whether there were any government records in the custody of the City that were potentially responsive to the request (as opposed to CMBOE which is a separate entity), the Deputy Clerk responded to the complainant seeking further clarification.

Pursuant to the GRC *"Custodian's Toolkit"*, a custodian may be unsure of which specific records are being requested. OPRA allows a custodian to seek clarification from the requester when this is the case. A custodian's request for clarification must be in writing within the seven business day response time and the custodian's response time stops until the requester provides

clarification. See Pg. 6-7. To date, the City has no record of any further response by the Complainant to the Deputy Clerk's January 26, 2023 request for clarification.

Notwithstanding the lack of a further response from the Complainant and the stoppage of time that applies, (and that this GRC complaint may be dismissed for lack of ripeness and exhausting administrative remedies) - the City has, in good faith, included with this Statement of Information government records that may be responsive to the original request and with the City *assuming* that the Complainant is seeking emails between City of Cape May Mayor Zachary Mullock and Cape May City Board of Education Superintendent Zachary H. Palombo and/or Administrator John R. Thomas between 11/1/2022 through 12/17/2022. To the extent this is the intended scope of the request, the City is providing any responsive records with its response.

However, with regard to (2) "*Email correspondence between Cape May City Elementary BOE and Superintendent.*" and (3) "*Email correspondence between School Nurse of CMES and Superintendent*" there are **no responsive records in the custody of the City**. The Complainant may direct this request to the CMBOE.

In an effort to bring resolution to any further confusion, the City indicates in the attached form that it is amenable mediation. However, to the extent the supplemental information contained herein and attached hereto addresses the intended scope of the request, the City of Cape May respectfully requests (1) that the Complainant withdraw their complaint or (2) in the alternative, the GRC deny the complaint for the reasons set forth herein.

Sincerely,

GILLIN-SCHWARTZ LAW

CHRISTOPHER GILLIN-SCHWARTZ

cc: City Clerk, the City of Cape May