



COMMONWEALTH OF KENTUCKY  
OFFICE OF THE ATTORNEY GENERAL

DANIEL CAMERON  
ATTORNEY GENERAL

CAPITOL BUILDING, SUITE 118  
700 CAPITAL AVENUE  
FRANKFORT, KENTUCKY 40601  
(502) 696-5300  
FAX: (502) 564-2894

**20-ORD-082**

June 3, 2020

In re: Wayne Bodytko/Community Transitional Services, LLC

**Summary:** Because Community Transitional Services, LLC (“CTS”) receives its public funding through a contract obtained through a public competitive procurement process, it is not a public agency that must comply with the Open Records Act (“the Act”).

***Open Records Decision***

Inmate Wayne Bodytko (“Appellant”) sent an open records request to Community Transitional Services, LLC (“CTS”), for copies of certain records relating to his time as a resident at the CTS facility. CTS denied Appellant’s request on the grounds that it was a private entity not subject to the Act.

CTS is a private limited liability company operating a halfway house in Louisville, Kentucky, under a contract with the Kentucky Department of Corrections (“DOC”). On appeal, Appellant offers no evidence that CTS is a “public agency” as defined by KRS 61.870(1).

Under KRS 61.870(1)(h), a private entity may be considered a “public agency,” and therefore subject to the Act, if twenty-five percent (25%) of the funds it expends in a fiscal year are derived from state or local funds. “However, any funds derived from a state or local authority in compensation for goods or services that are provided by a contract obtained through a public competitive

procurement process shall not be included in the determination of whether a [private entity] is a public agency under this subsection[.]” KRS 61.870(1)(h).

In 17-ORD-106 (copy attached), this Office found that CTS was not a public agency because its contract was obtained through a public competitive procurement process. Here, CTS affirms that this is still the case, and Appellant offers no proof to the contrary. Since the analysis in 17-ORD-106 is directly on point, this Office adopts that decision as if fully set forth herein. As a private entity not covered by KRS 61.870, CTS was not required to comply with the provisions of the Act.

A party aggrieved by this decision may appeal it by initiating action in the appropriate circuit court pursuant to KRS 61.880(5) and KRS 61.882. Pursuant to KRS 61.880(3), the Attorney General shall be notified of any action in circuit court, but shall not be named as a party in that action or in any subsequent proceedings.

Daniel Cameron  
Attorney General

/s/ James M. Herrick

James M. Herrick  
Assistant Attorney General

#118

Enclosure

Distributed to:

Wayne Bodytko, #120219  
Ms. Barbara Strahm