



COMMONWEALTH OF KENTUCKY
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20-ORD-152

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In re: Sam Aguiar/Louisville Metro Police Department

Summary: Louisville Metro Police Department (“Department”) violated the Open Records Act (“the Act”) when it failed to cite an exception or explain the basis for redactions made in records it produced for inspection. In addition, the Department violated the Act when it redacted the names of each officer’s secondary employer from the Secondary Employment Request forms. However, the Department did not violate the Act when it redacted home addresses under KRS 61.878(1)(a).

Open Records Decision

On May 24, 2020, Sam Aguiar (“Appellant”) requested copies of records relating to secondary employment of certain officers of the Department since 2014. On the Secondary Employment Request forms submitted by two officers, the Department redacted the names and addresses of the employers, but did not explain the reason for the redactions. This appeal followed.

Under KRS 61.880(1), a public agency that denies inspection of a public record, in whole or in part, must “include a statement of the specific exception authorizing the withholding of the record and a brief explanation of how the exception applies to the record withheld.” Here, the Department failed to cite any exception or explain its redactions. For that reason, the Department violated the Act.

On appeal, the Department cites KRS 61.878(1)(a), which exempts “[p]ublic records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy[.]” In reviewing an agency’s denial based on the personal privacy exemption, the courts and this Office engage in a balancing test that weighs the public’s right to know what is happening within government and the personal privacy interest at stake in the record. *See Zink v. Commonwealth, Dept. of Workers’ Claims*, 902 S.W.2d 825, 828 (Ky. App. 1994). However, the Kentucky Supreme Court has held that certain categories of information, including individuals’ home addresses, provide minimal insight into governmental affairs and can be categorically redacted under KRS 61.878(1)(a). *See Kentucky New Era, Inc. v. City of Hopkinsville*, 415 S.W.3d 76, 89 (Ky. 2013).

While it is possible that an individual’s home address might shed light on an agency’s conduct under particular circumstances, the record before this Office does not support such a finding. Therefore, this Office finds that the Department did not violate the Act when it redacted the home addresses of the officers’ secondary employers. *Kentucky New Era, Inc.*, 415 S.W.3d at 89.

The names of the secondary employers, however, are another matter. The Department’s policy, which it cites in response to this appeal, states that officers’ secondary employment “must not conflict with a member’s duties as an employee of the department, reflect unfavorably on the department, or impair the member’s performance of departmental duties.” When a private individual employs a Department officer, that person’s identity is especially relevant in ascertaining whether the Department is following its own policy in approving secondary employment requests. Furthermore, the name is essential information in identifying an individual private employer. This Office has recognized that “a person’s name is personal but it is the least private thing about him. . . . The name of a person should not be deleted from a public record unless there is some special reason provided by statute or court order[.]” OAG 82-234. After balancing the competing interests, this Office finds that the substantial public interest in monitoring the Department’s secondary employment approval decisions outweighs any privacy interest in the name of the private employer. Therefore, the Department violated the Act by redacting the employer names from the Secondary Employment Request forms.

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

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Distributed to:

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