



COMMONWEALTH OF KENTUCKY
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20-ORD-187

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In re: Jarrod Douglas/Central City

Summary: Central City (“City”) did not violate the Open Records Act (“the Act”), or subvert its intent, when it denied a request for in-person inspection during the current state of emergency.

Open Records Decision

Jarrold Douglas (“Appellant”) submitted a request to inspect certain records in-person. The City responded to the request by inviting Appellant to the City Attorney’s office, where the City Attorney hand delivered the City’s response.¹ In that response, the City denied Appellant’s request for an in-person inspection of records. The response invited Appellant to resubmit his request as one for copies of the records, or to wait until the end of the state of emergency so that he could again request an in-person inspection of the records. This appeal followed.

On appeal, Appellant admits that he has already obtained copies of the requested records and he does not claim that the City has failed to produce all responsive records. He challenges, however, the City’s policy of denying the in-person inspection of records. For that reason, this Office construes Appellant’s challenge as one brought under KRS 61.880(4). Under that provision, a person may

¹ Appellant argues that because he was instructed to appear in-person at the City Attorney’s office to receive a copy of the City’s response, the City should not be able to deny the in-person inspection of City records. The City Attorney explains that his office is not City property and that his decision to permit the public on his property should not be imputed to the City, which has restricted public access to City-owned property.

challenge a public agency's actions if he "feels the intent of [the Act] is being subverted by an agency short of denial of inspection[.]"

Appellant recognizes that the 2020 General Assembly enacted Senate Bill 150 ("SB 150") which, among other things, provides that public agencies "may delay on-site inspection [of records] during the pendency of the state of emergency." SB 150 §1(8)(a). However, Appellant claims that the City permits the public to enter City-owned buildings to conduct other public business, such as paying utility bills. He also claims that the City does not equally apply its policy to prohibit all on-site inspection during the state of the emergency. On the other hand, the City argues that it has denied every request to inspect records on-site since SB 150 was enacted. Instead, the City provides copies of records.

There is no evidence in the record to refute the City's assertion that it is applying its policy equally to all members of the public. Regardless, SB 150 expressly permits the City to deny on-site inspection of records during the current state of emergency, and here, the City has provided Appellant copies of the records he requested. Accordingly, the City did not subvert the intent of the Act by denying on-site inspection of records, which the law permits it to do. SB 150 §1(8)(a).

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.

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Distributed to:

Jarrold Douglas

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