



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

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21-ORD-077

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In re: WDRB News/Transportation Cabinet

Summary: Because the Transportation Cabinet (“Cabinet”) failed to respond to an open records request within ten days, it violated the Open Records Act (“the Act”) as modified by Senate Bill 150.

Open Records Decision

On March 4, 2021, WDRB News (“Appellant”) requested copies of certain records relating to costs associated with RiverLink toll bridges in Louisville, as well as a list of projects that had been sent to the Build America Bureau. The Cabinet did not respond to the request within ten days and did not explain its delay in producing records. This appeal followed.

Normally, a public agency must respond to an open records request within three business days. KRS 61.880(1). In response to the public health emergency caused by the novel coronavirus, however, the General Assembly modified that requirement when it enacted Senate Bill 150 (“SB 150”), which became law on March 30, 2020. SB 150 provides, notwithstanding the provisions of the Act, that “a public agency shall respond to the request to inspect or receive copies of public records within 10 days of its receipt.” SB 150 § 1(8)(a).

Here, the Cabinet did not respond to the request within the 10 days provided by Senate Bill 150. In this way, the Cabinet violated the Act.¹

¹ Under KRS 61.872(5), if a public record is “in active use, in storage or not otherwise available,” the public agency may designate a date for inspection that exceeds three days from receipt of the request, but only if “a detailed explanation of the cause is given for further delay

After the appeal was initiated, the Cabinet provided the records relating to RiverLink toll bridges, but denied the request for the list of projects under KRS 61.878(1)(j). Because the Appellant does not contest the denial of that portion of the request, this Office makes no finding with regard to that portion of the request.

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 proceeding.

Daniel Cameron
Attorney General

/s/ James M. Herrick

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Assistant Attorney General

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Distributed to:

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and the place, time, and earliest date on which the public record will be available for inspection.” The Cabinet did not comply with the terms of KRS 61.872(5).