



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

21-ORD-195

October 19, 2021

In re: David F. Smith/The City of Centertown

Summary: The City of Centertown (the “City”) violated the Open Records Act (“the Act”) when it failed to timely respond to two requests to inspect records.

Open Records Decision

On April 17, 2021, David F. Smith (“Appellant”) sent the City a request to inspect various records. He claims he received no response. Then, on August 8, 2021, the Appellant sent a second request in which he referred to his first request that had gone unanswered. On September 17, 2021, having received no response from the City, this appeal followed.

Under KRS 61.880(1), upon receiving a request for records under the Act, a public agency “shall determine within five (5) [business] days . . . after the receipt of any such request whether to comply with the request and shall notify in writing the person making the request, within the five (5) day period, of its decision.”

On appeal, the City claims it did respond to the Appellant’s first request on May 14, 2021, but that its response was returned to it as undeliverable. Regardless, the City admits that it did not issue a response to the Appellant’s first request until almost one month after the request had been received.¹ As for the Appellant’s second request, the City again claims to have mailed a

¹ Prior to June 29, 2021, a public agency was required to issue a response to a request to inspect records within ten calendar days. *See*, 2020 RS Senate Bill 150. However, the City failed to respond to the Appellant’s first request for almost one month, making its response untimely under both SB 150 and KRS 61.880(1).

response on August 19, 2021, or eleven days after receipt of the request, but that response was returned as undeliverable, too. In both instances the City failed to issue timely responses under KRS 61.880(1). Therefore, it violated 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/Matthew Ray
Matthew Ray
Assistant Attorney General

#292

Distributed to:

David F. Smith
Holly B. Lindsey