



COMMONWEALTH OF KENTUCKY
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21-ORD-246

December 13, 2021

In re: Joseph Spiaggi/Jefferson County Property Valuation Administrator

Summary: The Jefferson County Property Valuation Administrator (“the PVA”) did not violate the Open Records Act (“the Act”) when it did not deny a requester the right to inspect records on public premises.

Open Records Decision

On October 30, 2021, Joseph Spiaggi (“Appellant”) e-mailed a request to the PVA to inspect certain records relating to two street addresses, as well as “software manuals on importing digital plat maps of newly divided pieces of property.” In a timely response, the PVA e-mailed the requested records to the Appellant. This appeal followed.

On appeal, the Appellant claims that the PVA violated the Act by providing him with copies of the records when he had requested inspection on the premises. Under KRS 61.872(2)(a), “[a]ny resident of the Commonwealth shall have the right to inspect public records.” Furthermore, “suitable facilities shall be made available by each public agency for the exercise of this right.” KRS 61.872(1). A resident of the Commonwealth may inspect public records “[d]uring the regular office hours of the public agency.” KRS 61.872(3)(a). This Office has recognized that “subject to the provision that the agency may adopt rules and regulations . . . to provide full access to public records, to protect public records from damage and disorganization, and to prevent excessive disruption of [the agency’s] essential functions, the decision whether to conduct an on-site inspection of the records rests with [the requester].” *See* 97-ORD-12 (citing KRS 61.876(1)). This Office has further stated that “[u]nreasonable restrictions upon inspection may not be imposed.” *See* OAG 89-81.

Here, however, the Appellant has not shown that he was denied the right to inspect records at the agency's facilities.¹ The Appellant does not allege that he went to the PVA office during regular business hours in an attempt to inspect the records there and was forbidden to do so. *See* 21-ORD-212 (finding no violation of the Act when the PVA provided the Appellant with copies in person and did not prohibit him from remaining on the premises to inspect them). Accordingly, the PVA did not violate KRS 61.872(1), 61.872(2)(a), or 61.872(3)(a).

The Appellant further alleges that the PVA violated KRS 61.872(5), which requires a public agency to "designate a place, time, and date for the inspection of the public records" if the records are "in active use, in storage or not otherwise available." However, there is no indication here that the records were in active use, in storage, or not otherwise available. Rather, the PVA made the records available to the Appellant in a timely manner. Therefore, the PVA did not violate KRS 61.872(5).

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 within 30 days from the date of this decision. 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. The Attorney General will accept notice of the complaint e-mailed to OAGAppeals@ky.gov.

Daniel Cameron
Attorney General

/s/ James M. Herrick

James M. Herrick
Assistant Attorney General

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¹ Moreover, during the 2021 Special Session of the General Assembly, the legislature enacted House Joint Resolution 1 ("HJR 1"). Among other things, HJR 1 revives SB 150, which was the legislature's first response to the COVID-19 pandemic and which was originally enacted during the 2020 Regular Session. *See* HJR 1 § 2(1)(c). SB 150, which remains in effect until January 15, 2022, permits public agencies to deny in-person inspection of records at the agency's headquarters. *See* SB 150 § 1(8)(a).

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Distributed to:

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