



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

22-ORD-027

February 21, 2022

In re: Lawrence Trageser/Taylorsville Chamber of Commerce, Inc.

Summary: In the absence of evidence that Taylorsville Chamber of Commerce, Inc. (“the Chamber”) receives at least 25% of its funds expended in Kentucky from state or local authority funds, the Chamber is not a public agency under the Open Records Act (“the Act”).

Open Records Decision

On December 30, 2021, Lawrence Trageser (“Appellant”) requested records from September 28, 2021, to the present, pertaining to the location and expenditure of a \$10,000 donation made to the Chamber by the Spencer County Fiscal Court. The Chamber responded by stating that it was not a “public agency” and therefore not subject to the Act. This appeal followed.

Under the Act, the definition of “public agency” includes “[a]ny body which, within any fiscal year, derives at least twenty-five percent (25%) of its funds expended by it in the Commonwealth of Kentucky from state or local authority funds.” KRS 61.870(1)(h). On appeal, the Appellant claims that the Chamber derived at least 25% of its funds expended in 2021 from the Spencer County Fiscal Court and is therefore a public agency subject to the Act. The Chamber, however, asserts that it is a private nonprofit charitable organization and not a public agency. In support of its position, the Chamber has provided a copy of its 2021 financial statement, showing a total revenue of \$90,651.16 and total expenditures of \$79,833.36. In light of these figures, a \$10,000 donation from the Spencer County Fiscal Court, alone, is insufficient to render the Chamber a “public agency” under KRS 61.870(1)(h). The Appellant has not offered any evidence that the Chamber received state or local funds in excess of the \$10,000 donation at issue here. Because the record on

appeal does not contain sufficient evidence to find that the Chamber is a public agency, this Office cannot find that the Chamber is subject to the Act. Accordingly, the Chamber was not required to comply with the Appellant's 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 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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Distributed to:

Mr. Lawrence Trageser
James G. Hodge, Sr., Esq.