



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

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22-ORD-156

July 27, 2022

In re: Matt Miniard/Fayette County Conservation District

Summary: The Office of the Attorney General cannot find that the Fayette County Conservation District (“the District”) failed to respond to a request under the Open Records Act (“the Act”) within five business days when the District provided proof that a timely response was issued.

Open Records Decision

On April 6, 2022, Matt Miniard (“Appellant”) submitted five¹ requests to the District for electronic copies of various records relating to a financial audit, equipment rentals, and grant payments involving certain named individuals. The Appellant initiated this appeal on June 28, 2022, claiming that he had received no response from the District.

On appeal, the District claims that it did issue a timely response to the Appellant. As proof, the District submits a copy of a letter dated April 7, 2022, containing its response, as well as an e-mail of the same date purporting to transmit the response to the Appellant.²

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.” Here, the

¹ Although the Appellant claims to have submitted six requests, two of the requests he submitted with his appeal are identical.

² In its response, the District stated that it would allow the Appellant to inspect the records during its regular business hours, in lieu of sending him copies. Because it does not appear from the record that the Appellant resides or has his principal place of business outside Fayette County, the District is not required to send him copies of records prior to inspection. *See* KRS 61.872(3)(b); 21-ORD-143.

District claims to have issued a timely response to the Appellant's request, but the Appellant claims not to have received it. This Office cannot resolve a factual dispute between the parties, such as whether the requester received the public agency's response. *See, e.g.,* 22-ORD-142. Accordingly, this Office cannot find that the District failed to issue a response to the Appellant within five business days.

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:

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