



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

RUSSELL COLEMAN
ATTORNEY GENERAL

1024 CAPITAL CENTER DRIVE
SUITE 200
FRANKFORT, KY 40601
(502) 696-5300

24-ORD-135

June 12, 2024

In re: Makeda Charles/Louisville Regional Airport Authority

Summary: The Louisville Regional Airport Authority (“the Authority”) violated the Open Records Act (“the Act”) when it initially denied a request because it had previously provided the requested records. The Authority did not violate the Act when it denied a request for records because the requester is not a resident of the Commonwealth.

Open Records Decision

In May 2024, Makeda Charles (“Appellant”) submitted two requests to the Authority seeking “the original police report” regarding a specific incident, “the name of the Transportation Security Administration employee” who spoke to her, the identity of “the agency that employees airport police,” and a specific officer’s body camera footage. In a timely response to both requests, the Authority referred the Appellant to a previous record response it issued on April 6, 2024, which stated the Authority had provided the Appellant with all records she was seeking, and denied the requests because the Authority had previously provided records that “contain all the information you claim to seek.” This appeal followed.

The Authority’s original response denied the request because “[a]ll requested records have been provided to you and those records . . . contain all the information you claim to seek.” In essence, the Authority claims it is not required to fulfill a request it had previously granted. That argument, however, is grounded upon KRS 61.872(6), which requires the Authority to prove by “clear and convincing evidence” that the Appellant intended to disrupt its essential functions by making repeated requests, or that the request is unreasonably burdensome. *See* 23-ORD-180. The Authority has not made such a showing here. Thus, the Authority’s original response violated the Act.

On appeal, the Authority now claims the request was properly denied because the Appellant does not qualify as a “resident of the Commonwealth” under KRS 61.870(10). Under KRS 61.872(2)(a), only a “resident of the Commonwealth shall have the right to inspect public records.” The Act provides seven ways in which a person may qualify as a “resident of the Commonwealth.” *See* KRS 61.870(10). The term includes an individual residing in the Commonwealth, a domestic business entity, a foreign business entity registered with the Secretary of State, a person “that is employed and works at a location or locations within the Commonwealth,” a person or business that owns real property in the Commonwealth, or any person “that has been authorized to act on behalf of” one of these individuals. KRS 61.870(10). A “resident of the Commonwealth” also includes a “newsgathering organization” as defined in KRS 189.635(8)(b)1.a.–e. *Id.*

Here, the Appellant says she qualifies as a resident of the Commonwealth because she “traveled to Kentucky as a tourist,” because she was incarcerated in a Kentucky jail for a period of time ending in January 2023, because she is on staff at “Joshua Media Ministries International” which is “registered to do business online in Kentucky,” and because she purchased a ticket from an airline . . . at Muhammad Ali Airport.” None of these statements demonstrate that the Appellant qualifies as a “resident of the Commonwealth” under KRS 61.870(10). Although the Appellant says she was a resident of the Commonwealth while incarcerated, her requests were submitted to the Authority in May 2024. Thus, she has not stated that she was an “individual residing in the Commonwealth” at the time she made her requests. KRS 61.870(10)(a). Next, the Appellant states she works for a business that is “registered to do business online in Kentucky.” However, only an individual who “works at a location or locations *within the Commonwealth*” qualifies as a “resident of the Commonwealth.” KRS 61.870(1)(d) (emphasis added). The Appellant does not state that she works at “locations within the Commonwealth,” and therefore, does not qualify as a resident of the Commonwealth under KRS 61.870(10)(d). Finally, the Appellant’s statements that she traveled to Kentucky as a tourist and purchased an airline ticket at Louisville Muhammad Ali International Airport do not qualify her as a resident of the Commonwealth under KRS 61.870(10). Accordingly, the Authority did not violate the Act by denying the Appellant’s request because she is not a “resident of the Commonwealth” under the Act.

A party aggrieved by this decision may appeal it by initiating an action in the appropriate circuit court under KRS 61.880(5) and KRS 61.882 within 30 days from the date of this decision. Under 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 emailed to OAGAppeals@ky.gov.

Russell Coleman
Attorney General

/s/ Zachary M. Zimmerer
Zachary M. Zimmerer
Assistant Attorney General

#241

Distributed to:

Makeda Charles
Natalie Ciresi Chaudoin
Brenda D. Perry
Louisville Regional Airport Authority, Open Records Unit