



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

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24-ORD-173

July 30, 2024

In re: Kyle Thompson/Luther Luckett Correctional Complex

Summary: The Office cannot find that the Luther Luckett Correctional Complex (“the Complex”) violated the Open Records Act (“the Act”) when it did not respond to a request that it did not receive.

Open Records Decision

On May 30, 2024, inmate Kyle Thompson (“Appellant”) submitted two requests to the Complex seeking two letters he sent to the Complex’s Americans with Disabilities Act coordinator.¹ Having received no response by June 27, 2024, the Appellant initiated this appeal.

After the Appellant initiated this appeal, the Complex informed the Office that, in response to a new request submitted by the Appellant, it had provided him with a record responsive to one of his May 30 requests.²

Regarding the Appellant’s other request, the Complex claims it did not receive it. 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.” KRS 61.880(1). Here, the Complex claims it did not receive the Appellant’s request until this appeal was initiated. The Office cannot resolve factual disputes, such as whether a public agency actually received a request. *See, e.g.*, 23-ORD-071; 23-ORD-005; 22-ORD-216; 22-ORD-148; 22-ORD-125; 21-ORD-163. Thus, the Office cannot find the Complex violated the Act when it did not respond to a request it claims it did not receive.

¹ One letter related to awning covers and the other related to wheelchair weight scales.

² The Complex provided the Appellant with the letter related to awning covers. Accordingly, any dispute regarding this request is moot. *See* 40 KAR 1:030 § 6.

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
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Distributed to:

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