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24-ORD-203

September 24, 2024

In re: Shiann Sharpe/City of Georgetown

Summary: The City of Georgetown (the “City”) violated the Open Records Act (“the Act”) when it did not respond to a request for records within five business days of receiving it.

Open Records Decision

On August 8, 2024, Shiann Sharpe (“Appellant”) submitted a request to the City for any “bylaw, policy, local code, regulation, [or] statute” related to the Georgetown-Scott County Planning Commission “that authorizes the Commission, Director, or Chair to postpone meetings and hearings.” On August 27, 2024, having received no response from the City, the Appellant initiated this appeal.

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 Appellant submitted a request for public records to the City on August 8, but had not received a response as of August 27. On appeal, the City admits it failed to issue a timely response to the Appellant’s request.¹ Thus, the City violated the Act when it failed to respond to the Appellant's request within five business days.²

¹ The City states it received the Appellant’s request on August 13 and prepared a response to that request the next day. However, the City also states that, upon receiving the notice of appeal on August 29, it discovered that “due to an internal miscommunication” a copy of its response “had not been emailed to the Appellant.” As proof, the City provides a copy of its August 14 response.

² The City’s August 14 response denies the Appellant’s request because it “does not have custody or control of the records [the Appellant] is seeking” and provides the contact information for the records custodian of the Georgetown-Scott County Planning Commission. *See* KRS 61.872(4) (“If the person to whom the application is directed does not have custody or control of the public record requested, that

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/ Matthew Ray
Matthew Ray
Assistant Attorney General

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Distributed to:

Shiann Sharpe
Tracie Hoffman
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person shall notify the applicant and shall furnish the name and location of the official custodian of the agency's public records.”).