



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-267

December 11, 2024

In re: Saeid Shafizadeh/City of Stamping Ground

Summary: The Office cannot find that the City of Stamping Ground (the “City”) violated the Open Records Act (“the Act”) because it cannot resolve the factual dispute between the parties as to whether the City received a request to inspect records.

Open Records Decision

Saeid Shafizadeh (“Appellant”) claims that on July 11, 2024, he submitted a request to the City to inspect eleven categories of records “pertaining to” a specific individual. On November 14, 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” (emphasis added). Here, the Appellant asserts he sent his request to the City by email and U.S. mail on July 11, 2024, and that he had yet to receive a response by November 14, 2024. On appeal, the City asserts it did not respond to the Appellant's request because it did not receive it.¹ The Office has consistently found it is unable to resolve factual disputes between a requester and a public agency, such as whether an agency received a request to inspect records. *See, e.g.*, 24-ORD-184; 23-ORD-092; 23-ORD-071; 23-ORD-005; 22-ORD-216; 22-ORD-148; 22-ORD-125; 22-ORD-100; 22-ORD-051; 21-ORD-163. Therefore, the Office is unable to resolve this factual dispute or find that the City violated the Act.²

¹ On appeal, the City states that it “intends to comply with the [request] by mailing the requested non-exempt records to the Appellant within five business days.”

² On appeal, the City states that it no longer monitors the email address to which the request was sent. In response, the Appellant asserts the City has violated KRS 61.876(2), which requires the City

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:

Saeid Shafizadeh
Reda Conn, City Clerk
Joseph M. Hoffman
Keith Murphy

to post in a prominent location on its website its policies and procedures, as well as the contact information for its official records custodian. Although the Appellant is correct in his assertion that the City must post an accurate email address for its records custodian, that issue is not properly before the Office. In 22-ORD-165, the Office held that a person must first submit a complaint to the public agency about its alleged failure to post the materials required under KRS 61.876(2) on its website. That is because, under KRS 61.880(2)(a) and KRS 61.880(4), the Office only has jurisdiction to review a person's request and the agency's response, or lack thereof, and then determine whether the agency has complied with the Act. Because the Appellant's request to the City made no mention of its alleged failure to comply with KRS 61.876(2), the City had no opportunity to respond to the allegation before the appeal was initiated, and this issue therefore may not be argued in this appeal.