



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

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25-OMD-004

January 6, 2025

In re: Aaron Tennyson/Brandenburg City Council

Summary: The Office of the Attorney General (“the Office”) lacks jurisdiction to consider a complaint alleging that the Brandenburg City Council (“the Council”) violated the Open Meetings Act (“the Act”) because the complaint was not first submitted to the presiding officer of the public agency accused of violating the Act.

Open Meetings Decision

Aaron Tennyson (“the Appellant”) submitted a complaint to the Brandenburg City Clerk alleging the Council violated the Act by failing to provide proper notice of its December 4, 2024 meeting, by failing to limit topics of discussion to items on its agenda, and by only allowing certain members of the public to speak at the meeting. As a remedy, the Appellant proposed that the Council acknowledge that it violated the Act, create a plan to provide better notice of its meetings, and receive training regarding the Act and the “public’s constitutional rights.” Having received no response to his complaint by December 17, 2024, the Appellant initiated this appeal.

As an initial matter, the Office must be assured of its jurisdiction before it may render a decision under KRS 61.846(2). A complainant’s request for the Attorney General to review an agency’s denial of a complaint submitted under the Act is a statutory proceeding created by the General Assembly as an act of legislative grace. As such, a complainant must strictly comply with KRS 61.846 before invoking the Attorney General’s jurisdiction to review the complaint. *See, e.g.*, 24-OMD-200; 24-OMD-133; 22-OMD-177.

To invoke the Attorney General’s review under KRS 61.846(2), a complainant “shall begin enforcement” under subsection (1) of the statute. KRS 61.846(1). That provision requires the complainant to “submit a written complaint to the presiding officer of the public agency suspected of” violating the Act. *Id.* Accordingly, to begin enforcement, the complaint may not be submitted to just any person at “the public agency suspected” of committing the violation; rather, the complaint must be sent to

the agency's "presiding officer." In 22-OMD-177, the Office dismissed a complaint alleging the Jefferson County Public Schools Site Based Decision Making Council had violated the Act because the complainant failed to submit his complaint to the presiding officer of that agency. Rather, he submitted his complaint to the Superintendent of the Jefferson County Public Schools and the school district's general counsel.

Similarly, here, the Appellant states that he submitted his complaint to the Brandenburg City Clerk, not to the "presiding officer" of the Council. The City Clerk is not the presiding officer of Council meetings. Rather, "[t]he mayor shall preside at meetings of the council." KRS 83A.130(5). Because the Appellant states that "the original complaint [was] submitted to the Brandenburg city clerk," he did not comply with KRS 61.846(1) by submitting a copy of his complaint to the presiding officer of the Council before initiating this appeal. Accordingly, the Office lacks jurisdiction under KRS 61.846(2) and therefore dismisses this appeal.

A party aggrieved by this decision may appeal it by initiating an action in the appropriate circuit court pursuant to KRS 61.846(4)(a). 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

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Distributed to:

Aaron Tennyson
David Pace, Mayor
Amy Haynes, City Clerk
Jessica Brown, City Attorney