



COMMONWEALTH OF KENTUCKY OFFICE OF THE ATTORNEY GENERAL

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25-ORD-011

January 10, 2025

In re: Kurt Wallace/City of Hillview

Summary: The City of Hillview (the “City”) violated the Open Records Act (“the Act”) when it failed to respond to a request within five business days of receiving it.

Open Records Decision

Kurt Wallace (“Appellant”) claims that on November 26, 2024, he submitted a request to the City for 15 different records. On December 7, 2024, having received no response from the City, the Appellant initiated this appeal.¹

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 claims he submitted a request to the City on November 26, but had yet to receive a response as of December 7. On appeal, the City does not dispute the Appellant’s assertions or claim it issued a timely response. Under the Act, the City carries the burden of proof to sustain its actions. KRS 61.880(2)(c). Here, the City did not explain why it did not respond to the Appellant’s request. Thus, the City violated the Act when it failed to respond to the Appellant’s request within five business days of receiving it.²

¹ On appeal, the Appellant makes allegations of allegedly criminal conduct, which are outside the scope of an Open Records appeal under KRS 61.880(2).

² After the appeal was initiated, the City provided the requested records to the Appellant. The Appellant confirmed receipt of the records and only challenges the City’s failure to issue a timely response to his request. The Office has previously declined to consider an appeal moot when the agency provides responsive records only after initiation of an appeal. *See* 24-ORD-163 (finding “the appeal [was] not moot” and the agency “subverted the Act” by causing “delay past the five (5) day period described in” KRS 61.880(1)).

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:

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