



COMMONWEALTH OF KENTUCKY  
OFFICE OF THE ATTORNEY GENERAL

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25-ORD-045

February 14, 2025

In re: Debby and Jerry Noel/City of Muldraugh

**Summary:** The City of Muldraugh (“the City”) violated the Open Records Act (“the Act”) when it did not grant or deny four requests within five business days and when it delayed access to public records on the basis that its employees, as opposed to the requested records, were unavailable.

***Open Records Decision***

On December 20, 2024, Debby and Jerry Noel (“Appellant”) submitted four requests to the City. Those requests sought “a copy of the newest employee policy ordinance”; “the Itemized monthly budget for the month of June, August and November”; “the name of the company that is doing the audit for the city this year”; and “the total cost that the city of Muldraugh pays for on all benefits for each employee including health, dental and vision insurance.” On January 15, 2025, having received no response to their requests, the Appellants initiated this appeal.<sup>1</sup>

On appeal, the City provided the Office with all its communications with the Appellants. First, on December 30, 2024, the City informed the Appellants that it “will answer [the Appellants’] questions” as soon as possible. Then, on January 9, 2025, the City answered some of the Appellants’ requests, asked clarifying questions about the scope of other requests, and stated that all requests would be fulfilled “around January 20, 2025.”

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<sup>1</sup> The Appellants also provided the Office with a copy of their August 30 request for “a meeting with the code enforcement board.” Because that is not a request to submit records, the Office lacks jurisdiction to consider the City’s alleged nonresponse to that request. *See, e.g.*, 25-ORD-026 (finding the Office did not have jurisdiction to consider a complaint regarding a request that the agency preserve certain records).

Under KRS 61.880(1), a public agency has five business days to grant or deny a request for public records. This period may be extended if the records are “in active use, in storage or not otherwise available,” but the agency must give “a detailed explanation of the cause . . . for further delay and the place, time, and earliest date on which the public record[s] will be available for inspection.” KRS 61.872(5). Here, the Appellants submitted their requests electronically on December 20, 2024, but the City’s December 30, 2024, response did not grant or deny the requests or otherwise explain that the records were “in active use, in storage or not otherwise available.”

Further, the City’s January 9, 2025, response—which partially granted the request, asked clarifying questions,<sup>2</sup> and identified January 20, 2025,<sup>3</sup> as the date on which all records would be made available—was submitted on the tenth business day after receipt of the request. Moreover, the City did not state that responsive records were “in active use, in storage or not otherwise available.” Instead, it cited its “altered schedule” and the sickness of certain employees. The Office has previously held that public agencies may not rely on employee absences to delay access to responsive records. *See, e.g.*, 23-ORD-013; 23-ORD-004. Accordingly, the City violated the Act when it did not timely grant or deny the Appellants’ requests and when it improperly relied on employee absences to delay access to responsive records.<sup>4</sup>

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](mailto:OAGAppeals@ky.gov).

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<sup>2</sup> The Office has previously found that a public agency does not violate the Act when it, in good faith, sends a request seeking clarification of an ambiguity or for additional information to help locate responsive records. *See, e.g.*, 19-ORD-035.

<sup>3</sup> The City provided a copy of its January 20 correspondence producing a record responsive to the remaining unanswered request.

<sup>4</sup> The Office notes that the City’s January 9 and January 20 correspondence were sent to a different email address than those used by the Appellants when submitting their requests. Thus, it is not clear whether the Appellants received either response. But the Office is unable to resolve factual disputes between a requester and a public agency, such as whether a requester received an agency’s response to his request. *See, e.g.*, 23-ORD-220; 21-ORD-233.

**Russell Coleman**  
**Attorney General**

/s/ Zachary M. Zimmerer  
Zachary M. Zimmerer  
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Distributed to:

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