



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

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25-ORD-068

March 18, 2025

In re: Tanyqua Oliver/Lexington–Fayette Urban County Government

Summary: The Office cannot find that the Lexington–Fayette Urban County Government (“LFUCG”) violated the Open Records Act (“the Act”) because the Office is unable to resolve the factual dispute between the parties regarding whether LFUCG made the requested records available for inspection.

Open Records Decision

Tanyqua Oliver (“Appellant”) submitted a request to LFUCG to inspect video recordings of its “Code Enforcement Board Hearings” and the code enforcement board’s “Standard Operating Procedure.” LFUCG granted the request, stated the date and time when the records would be available for inspection, and asked the Appellant to state when she would “be coming into the office to view these records” so that it could “have the information set up for [her] review to reduce [her] wait time.” The Appellant initiated this appeal, claiming that when she went to inspect the records, “everyone left the office after telling [her] to come in and view the records.”

On appeal, LFUCG asserts that it did not refuse to allow the Appellant to inspect the requested records. Rather, LFUCG explains that the paper records were available to be inspected in its conference room, but the video records were not available for inspection when the Appellant arrived because the employee who knew how to access them was at lunch and the Appellant had not made an appointment to inspect the records. LFUCG states it advised the Appellant that the videos remained available for inspection prior to the Appellant’s initiation of this appeal, but she declined to return. Thus, a factual dispute exists between the parties regarding whether the requested records were actually made available to the Appellant.

The Office has regularly found it is unable to resolve factual disputes between the parties to an appeal under KRS 61.880(2)(a), including disputes about whether the requested records were actually made available to the requester. *See, e.g.*, 23-ORD-220 (the Office cannot resolve a factual dispute regarding whether a requester received a public agency's response to a request); 22-ORD-010 (the Office is unable to resolve a factual dispute between the parties regarding whether the records that have been provided are different from those records sought); 19-ORD-083 (stating this Office cannot "resolve the factual dispute between the parties regarding the disparity between records which have been provided and those sought but not provided"). Similarly, here, the Office cannot resolve the factual dispute between the parties as to whether LFUCG made the records available to the Appellant because the Office cannot make a factual finding about what occurred on the day the parties met to facilitate the records inspection. As a result, the Office cannot find that LFUCG violated the Act.

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:

Tanyqua Oliver
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