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20-ORD-153

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In re: Tyler Fryman/Kentucky League of Cities

Summary: Kentucky League of Cities ("KLC") did not violate the Open Records Act ("the Act") in its response to an ambiguous request for records related to "settlements."

Open Records Decision

On June 29, 2020, Tyler Fryman ("Appellant") requested to inspect "[a]ll final settlement orders and supporting documentation to include but not limited to emails to and from KLC and checks/wire transfers for settlements that were paid out" between January 1, 2019, and June 29, 2020. KLC responded that there were no records responsive to Appellant's request. This appeal followed.

On appeal, Appellant claims that KLC failed to conduct an adequate search for records. As evidence, Appellant cites a newspaper article reporting that KLC, in its capacity as insurer of the City of Bardstown, issued a settlement check in 2019 for a wrongful death action against the city.

In response, KLC states that it construed Appellant's request as one for records related to "settlement orders directly involving [KLC] as a named party," not to insurance settlements by KLC on behalf of insured municipalities. KLC points out that Appellant's request did not mention the word "insurance" or otherwise indicate that Appellant was seeking insurance settlement records for cases in which KLC was not a party.

KLC asserts that Appellant's request did not "precisely describe[]" the records he wished to inspect, as required by KRS 61.872(3)(b). However, that provision does not apply when a person requests *inspection* of records, as opposed to copies. *Commonwealth v. Chestnut*, 250 S.W.3d 655, 661 (Ky. 2008). Furthermore, the legal sufficiency of Appellant's request is not the issue, because KLC did not deny Appellant's request for lack of a precise description. Rather, KLC informed Appellant that there were no responsive records because KLC misconstrued an ambiguous request.¹ If Appellant seeks other documents, he may resubmit his request to KLC with a description that more clearly articulates the records sought.

A party aggrieved by this decision may appeal it by initiating action in the appropriate circuit court pursuant to KRS 61.880(5) and KRS 61.882. Pursuant to 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.

Daniel Cameron
Attorney General

/s/ James M. Herrick

James M. Herrick
Assistant Attorney General

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Distribution:

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¹ Appellant does not dispute that no settlements exist for the relevant time period in which KLC itself was a party.