



COMMONWEALTH OF KENTUCKY  
OFFICE OF THE ATTORNEY GENERAL

DANIEL CAMERON  
ATTORNEY GENERAL

CAPITOL BUILDING, SUITE 118  
700 CAPITAL AVENUE  
FRANKFORT, KENTUCKY 40601  
(502) 696-5300  
FAX: (502) 564-2894

**20-ORD-162**

October 13, 2020

In re: William Van Cleve/City of Ravenna

**Summary:** City of Ravenna ("City") did not violate the Open Records Act ("the Act") by failing to provide records that it did not possess.

***Open Records Decision***

On July 16, 2020, William Van Cleve ("Appellant") requested copies of "all records of expenditures from [the City's] Municipal Road Aid and Local Government Economic Assistance Funds" from July 1, 2016, through July 15, 2020. The City has provided all responsive records within its possession. This appeal is therefore moot as to the records the City has provided. 40 KAR 1:030 § 6.

The City was unable to provide two invoices from Miller Maintenance Company because they are not within its possession. But the City has no duty or obligation to provide records it does not possess, and Appellant has made no *prima facie* showing that the requested records exist in the agency's possession. *Bowling v. Lexington-Fayette Urban Cty. Gov't*, 172 S.W.3d 333, 341 (Ky. 2005). Therefore, this Office is unable to find that the City violated the Act.<sup>1</sup>

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

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<sup>1</sup> Although it has no obligation to do so under the Act, the City is attempting to obtain copies of those invoices to provide to Appellant.

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 proceeding.

Daniel Cameron  
Attorney General

/s/ James M. Herrick

James M. Herrick  
Assistant Attorney General

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Distributed to:

William C. Van Cleve  
Beverly A. Brewer, Esq.  
Ashley N. Moore, Clerk