



COMMONWEALTH OF KENTUCKY  
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**21-ORD-131**

July 21, 2021

In re: Stephen Zoglman/City of Owensboro

**Summary:** The City of Owensboro (the “City”) violated the Open Records Act (“the Act”) when it did not issue a timely written response to a request to inspect records.

***Open Records Decision***

On June 8, 2021, Stephen Zoglman (“Appellant”) emailed a request to the City to inspect “all records related to the P3 agreement referenced by the Mayor of Owensboro during the groundbreaking held September 29, 2020 of the \$3 million new Fairview Drive Extension.” Appellant specified that the scope of his request included “any and all supporting documentation related to the project required by KRS 65.028[]” as well as “procurement documents,” “unsolicited proposals,” “public notices,” and “any communications to [or] from [the City]” and state agencies referenced in KRS 65.028. On June 19, 2021, having received no response from the City, the Appellant appealed to this Office.

Normally, a public agency must respond to an open records request within three business days.<sup>1</sup> KRS 61.880(1). In response to the public health emergency caused by the Coronavirus, however, the General Assembly modified that requirement when it enacted SB 150, which became law on March 30, 2020. SB 150 provides, notwithstanding the provisions of the Act, that “a public agency shall respond to the request to inspect or receive copies of public records within 10 days of its receipt.” SB 150 § 1(8)(a). Under KRS

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<sup>1</sup> Effective June 29, 2021, KRS 61.880(1) is modified to require an agency to respond, in writing, within five business days of receiving the request and notify the requester whether it will comply with or deny the request.

446.030, when the period prescribed by statute is seven days or less, weekends and legal holidays are excluded from the computations of time. Therefore, because SB 150 provides ten days to respond, weekends or holidays are not excluded from the computation of time and a response is due within ten calendar days of receipt.

On June 22, 2021, after initiation of the appeal, the City issued its response to the Appellant. The City claims that this response was timely because “June 12, June 13, June 19, and June 20 were all Saturdays or Sundays and therefore do not count against the ten (10) day limit.” For the reason stated above, the City was required to issue a written response on or before June 18, 2021, making the City’s June 22, 2021 response untimely. Because the City did not issue a written response within ten calendar days of receiving the Appellant’s request it violated the Act, as modified by SB 150.<sup>2</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 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/Matthew Ray  
Matthew Ray  
Assistant Attorney General

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Distributed to:

Mark Pfeifer  
Stephen Zoglman

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<sup>2</sup> On appeal, the City provided responsive records, and the Appellant asserts no challenge related to the records that the City has produced.