



COMMONWEALTH OF KENTUCKY
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22-ORD-060

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In re: Joseph Spiaggi/Jefferson County Property Valuation Administrator

Summary: The Jefferson County Property Valuation Administrator (“the PVA”) subverted the Open Records Act (“the Act”), within the meaning of KRS 61.880(4), when it failed to respond to a request to inspect records within five business days.

Open Records Decision

On March 9, 2022, Joseph Spiaggi (“Appellant”) requested a copy of property records related to four property addresses. On March 16, 2022, having received no response from the PVA, the Appellant initiated this appeal.

On March 17, after the appeal was initiated, the PVA responded to the Appellant and provided responsive records for two of the four addresses. The PVA claims that no responsive records exist relating to the other two addresses because no property exists with those addresses. The PVA therefore requested this appeal to be rendered moot. *See* 40 KAR 1:030 § 6 (“If the requested documents are made available to the complaining party after a complaint is made, the Attorney General shall decline to issue a decision in the matter.”). The Appellant, however, objects to this appeal being rendered moot, and asserts that the failure of the PVA to timely respond was itself a violation of the Act.¹

Upon receiving a request to inspect records, a public agency must decide within five business days whether to grant the request, or deny the request and explain why. KRS 61.880(1). A public agency may also delay access to

¹ The Appellant does not challenge the PVA’s claim that no responsive records exist that relate to two of the addresses the Appellant provided.

responsive records if such records are “in active use, storage, or not otherwise available.” KRS 61.872(5). A public agency that invokes KRS 61.872(5) to delay access to responsive records must also notify the requester of the earliest date on which the records will be available, and provide a detailed explanation for the cause of the delay. Here, the PVA did not grant the request, deny it, or provide the Appellant with the earliest date on which records would be available or explain the cause of delay.

Under KRS 61.880(4), “[i]f a person feels the intent of [the Act] is being subverted by an agency short of denial of inspection, including but not limited to . . . delay past the five (5) [business] day period described in [KRS 61.880(1)] . . . the person may complain in writing to the Attorney General.” Here, the Appellant claims that the failure of the PVA to provide responsive records within five business days of receiving his request, as required under KRS 61.880(1), constitutes subversion of the Act. The PVA has not explained why it was unable to respond to the Appellant’s request within five business days. Accordingly, the PVA subverted the Act, within the meaning of KRS 61.880(4), when it delayed the Appellant’s access to records beyond five business days from the agency’s receipt of the request.

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 within 30 days from the date of this decision. 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. The Attorney General will accept notice of the complaint e-mailed to OAGAppeals@ky.gov.

Daniel Cameron
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/s/Marc Manley
Marc Manley
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Distributed to:
Joseph Spiaggi
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