



COMMONWEALTH OF KENTUCKY  
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**22-ORD-122**

May 31, 2022

In re: Anonymous/Fayette County Clerk

**Summary:** The Fayette County Clerk (the “Clerk”) did not violate the Open Records Act when he denied a request that failed to contain the name of the applicant, or a statement demonstrating that the applicant is a resident of the Commonwealth.

***Open Records Decision***

On April 25, 2022, the Clerk received an email from “foia38277645” (the “Appellant”) that demanded to inspect various records. The email did not contain the name of the Appellant, or a statement that demonstrated how the anonymous person qualified as a resident of the Commonwealth. In a timely response, the Clerk responded to the anonymous email and provided a copy of the Clerk’s rules and regulations for submitting requests to inspect records. *See* KRS 61.876. The Appellant then initiated this appeal, and still has not provided his or her name.

During the 2021 Regular Session, the General Assembly enacted House Bill 312 (“2021 HB 312”) which made a significant change to the Act. Effective June 29, 2021, “[a]ll public records shall be open for inspection by any *resident of the Commonwealth*” and “[a]ny *resident of the Commonwealth* shall have the right to inspect public records.” KRS 61.872. The Act defines “resident of the Commonwealth” to include an individual residing in the Commonwealth, a domestic business entity, a foreign business entity registered with the

Secretary of State, a person employed in the Commonwealth, a person or business that owns real property in the Commonwealth, or any person “that has been authorized to act on behalf of” one of these individuals. KRS 61.870(10). A “resident of the Commonwealth” also includes a “newsgathering organization” as defined in KRS 189.635(8)(b)1.a. to e. *Id.*

Any “resident of the Commonwealth” may apply to inspect records. However, any application to inspect records must contain the name and signature of the person making the request. KRS 61.872(2)(a). Moreover, the official records custodian may require a person requesting to inspect records “to provide a statement in the written application of the manner in which the applicant is a resident of the Commonwealth under KRS 61.870(10)(a) to (f).” KRS 61.872(2)(a).

Here, the Appellant has not submitted to the Clerk an application to inspect records that complies with KRS 61.872(2). Therefore, the Clerk did not violate the Act when he denied a request that failed to contain a name, signature, or a statement demonstrating how the Appellant is a resident of the Commonwealth.

A party aggrieved by this decision may appeal it by initiating 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.

**Daniel Cameron**  
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s/Marc Manley  
Marc Manley  
Assistant Attorney General

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Donald Blevins, Fayette County Clerk