



COMMONWEALTH OF KENTUCKY
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22-ORD-138

June 22, 2022

In re: Dean Dresel/City of Muldraugh

Summary: The City of Muldraugh (the “City”) did not violate the Open Records Act (“the Act”) when it denied a request for information. This Office cannot find that the City violated the Act for failing to respond to a request within five business days.

Open Records Decision

On March 25, 2022, Dan Dresel (“Appellant”) submitted a request to the City in which he asked two questions. First, he asked “[w]hat was the date that you had our first sewer line cut off on Wilson Street?” Second, he asked “[w]hat was the reason you cut off our 9 sewer lines?”¹ The Appellant claims that he did not receive a response from the City, and therefore he submitted his request again on May 11, 2022.² On May 26, 2022, the Appellant initiated this appeal and claims he has not received a response from the City.

The Appellant attached to his appeal an email dated March 25, 2022, at 2:07 p.m. But the City provides proof that the Appellant sent another email three minutes later at 2:10 p.m. In the 2:10 p.m. email, the Appellant asked “[w]hat was the date of

¹ The Appellant attached to his appeal an email dated March 25, 2022, at 2:07 p.m. The City, however, claims to have not received that email. Instead, the City provides a copy of an email that the Appellant sent at 2:10 p.m., or three minutes after the email the Appellant is appealing. In the 2:10 p.m. email, the Appellant also asked “[w]hat was the date of the special meeting requested on the Dresel Family illegally cut off sewer lines?” and “[w]hen are our sewer lines being reconnected?”

² In the Appellant’s May 11, 2022 request, the questions he asked vary slightly from those he claims he asked the City in his March 25, 2022, 2:07 p.m. request. First, he asked “[w]hat was the address and date our first sewer line was cut off on Wilson St?” Second, he asked “[w]hat is the reason our sewer lines are cut off?”

the special meeting requested on the Dresel Family illegally cut off sewer lines?” and “[w]hen are our sewer lines being reconnected?” The City provides proof that it responded to the 2:10 p.m. email. The City denied the 2:10 p.m. email because the Appellant did not describe records to be inspected and had instead requested answers to questions. The City invited the Appellant to attend its next public meeting and provided the date and time of the meeting so that the Appellant could voice his concerns about the City’s sewer system.

Under KRS 61.880(1), a public agency must respond to a request made under the Act within five (5) business days. However, this Office has previously found that it cannot resolve a factual dispute between the parties, such as, whether or not the requester received a response from the public agency once the public agency provides proof it transmitted its response. *See, e.g.,* 22-ORD-024; 21-ORD-233; 21-ORD-163. Here, the Appellant claims he submitted a request to the City on two different dates, on March 25 and May 11, but the City never responded. The City, on appeal, claims it responded to the only email that it received from the Appellant on March 25, which was the email sent at 2:10 p.m. Accordingly, this Office cannot resolve the dispute between the parties whether or not the City received the Appellant’s 2:07 p.m. email, or whether the Appellant received the City’s response to his 2:10 p.m. email. Accordingly, the Office cannot find that the City did not respond within five business days of that it violated the Act.

Finally, the City claims, on appeal, that it denied the Appellant’s request because it was a request for information. The Act only requires public agencies to fulfill requests for records, not requests for information. KRS 61.872; *Dept. of Revenue v. Eifler*, 436 S.W.3d 530, 534 (Ky. App. 2013) (“The ORA does not dictate that public agencies must gather and supply information not regularly kept as part of its records.”). A request to inspect public records must, at a minimum, describe those records in a manner “adequate for a reasonable person to ascertain the nature and scope of [the] request.” *Commonwealth v. Chestnut*, 250 S.W.3d 655, 661 (Ky. 2008). This Office has found that the Act does not require public agencies to fulfill requests for information. *See, e.g.,* 22-ORD-110; 22-ORD-088. Specifically, this Office has found that a public agency does not violate the Act when it denies a request for answers to questions. *See, e.g.,* 22-ORD-110; 11-ORD-193; 11-ORD-043. In each of his emails, the Appellant simply asked questions and did not describe any records that he wished to inspect. Accordingly, the Department did not violate the Act when it denied the Appellant's requests for information.

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
Attorney General

s/Matthew Ray
Matthew Ray
Assistant Attorney General

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Distributed to:

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