



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

22-ORD-202

October 3, 2022

In re: Chad Walker/City of Winchester

Summary: The City of Winchester (“the City”) violated the Open Records Act (“the Act”) when it did not respond to a request to inspect records.

Open Records Decision

On August 17, 2022, Chad Walker (“Appellant”), made a request to the City for a list of parcels included in the City’s tax increment financing (“TIF”) district and for the amount of property and occupational taxes collected for the TIF district. Having received no response, the Appellant resubmitted his request on August 24, 2022.¹ On September 7, 2022, after receiving no response from the City to either request, the Appellant initiated this appeal.

Under KRS 61.880(1), upon receiving a request for records under the Act, a public agency “shall determine within five (5) [business] days . . . after the receipt of any such request whether to comply with the request and shall notify in writing the person making the request, within the five (5) day period, of its decision.” After the appeal was initiated, the City responded to the Appellant’s request on September 14, 2022. On appeal, the City states only that the Appellant sent his request to the Mayor and City Commissioners when he should have submitted his request to the City’s records custodian.²

Under KRS 61.872(4), if “the person to whom the application is directed does not have custody or control of the public record requested, that person shall notify the

¹ Both requests were made via email and sent to the Winchester Mayor as well as each City Commissioner.

² As a part of that response, the City has produced the only record responsive to the Appellant’s request.

applicant and shall furnish the name and location of the official custodian of the agency's public records." Thus, the Mayor and City Commissioners were still required to either notify the Appellant of the record custodian's name and location or forward the Appellant's request to the records custodian. *See, e.g., 22-ORD-041* (finding a correctional facility violated the Act when its employee failed to notify the requester of the official custodian's contact information or forward the request to the official custodian). Therefore, the City violated the Act when it did not respond to either of the Appellant's requests within five business days.

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
Attorney General

s/Marc Manley
Marc Manley
Assistant Attorney General

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Distributed to:

Chad Walker
William A. Dykeman