



COMMONWEALTH OF KENTUCKY  
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**22-ORD-209**

October 7, 2022

In re: Glenn Hayden/School Facilities Construction Commission

**Summary:** The School Facilities Construction Commission (“the Commission”) violated the Open Records Act (“the Act”) when it failed to respond timely to a request for records.

***Open Records Decision***

On August 27, 2022, Glenn Hayden (“Appellant”) submitted a request to the Commission to inspect the “written approval allowing Graves County Board of Education and Graves County School District Finance Corp to issue any new bonds” following a 2019 audit. Having received no response to his request, the Appellant initiated this appeal on September 12, 2022.

Under the Act, a public agency has five business days to fulfill a request for public records or deny such a request and explain why. KRS 61.880(1). Accordingly, the Commission’s response was due on September 6, 2022. On appeal, the Commission admits that it “inadvertently failed to respond” to the request prior to this appeal. Thus, the Commission violated the Act when it failed to issue a timely response.<sup>1</sup>

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<sup>1</sup> On September 13, 2022, the Commission issued a response to the request, in which it advised the Appellant that it did not have custody of any responsive records. However, the Commission stated that the Capital Projects and Bond Oversight Committee might have the requested records, and provided the Appellant with the name, address, and e-mail address of that committee’s records custodian. Under KRS 61.872(4), “[i]f the person to whom the application is directed does not have custody or control of the public record requested, that person shall notify the applicant and shall furnish the name and location of the official custodian of the agency’s public records.” By providing the necessary contact information for the Capital Projects and Bond Oversight Committee, the Department complied with KRS 61.872(4).

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/James M. Herrick  
James M. Herrick  
Assistant Attorney General

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Distributed to:

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