



COMMONWEALTH OF KENTUCKY  
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**22-ORD-257**

December 5, 2022

In re: Mary Rowe/City of Salyersville

**Summary:** The City of Salyersville (“the City”) violated the Open Records Act (“the Act”) when it delayed access to records without invoking KRS 61.872(5) or providing a detailed explanation for the delay.

***Open Records Decision***

Mary Rowe (“Appellant”) submitted a request to the City for a variety of records related to the City’s finances.<sup>1</sup> The City responded by stating it would place the request on a “30-day extension” because the City was “short staffed and it being tax season.” The Appellant then initiated this appeal.

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 responsive records beyond five business days 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 City responded to the Appellant’s request within five business days but stated only that it was placing the request on a “30-day extension” because the

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<sup>1</sup> The Appellant requested copies of all bills received by the City from September 1, 2022 through October 26, 2022, for an itemized statement of such bills, for the Mayor’s starting salary and any salary increases he has received through October 26, 2022, for an itemized statement of all bills submitted to the City by a specific media company, for a list of loan accounts the city has with specific banks and how much are owed on those loan accounts, and for a copy of the City’s last two audits.

City was “short staffed and it being tax season.” The City neither cited KRS 61.872(5), nor asserted the records were “in active use, in storage, or not otherwise available.” Moreover, the fact an agency is understaffed or busy during a particular time of year does not constitute a detailed explanation for why it must delay production of the requested records. *See, e.g.*, 22-ORD-134; 22-ORD-133; 19-ORD-188 n.1. Thus, the City violated the Act when it failed to properly invoke KRS 61.872(5) and when it failed to provide a detailed explanation for why it would take 30 days to respond to the Appellant’s 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/ Zachary M. Zimmerer  
Zachary M. Zimmerer  
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Distributed to:

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