



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

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23-OMD-205

August 9, 2023

In re: *The Levisa Lazer*/Lawrence County Fiscal Court

Summary: The Lawrence County Fiscal Court (“the Fiscal Court”) violated the Open Meetings Act (“the Act”) when it failed to issue a written response to a complaint within three business days. The Fiscal Court also violated the Act when it failed to send notice of a special meeting to a media organization that had filed a written request to receive such notices under KRS 61.823(4).

Open Meetings Decision

In a written complaint to the presiding officer of the Fiscal Court, *The Levisa Lazer* (“Appellant”), an online newspaper, alleged that the Fiscal Court had violated the Act by failing to notify the Appellant of special meetings held in June and July 2023. The Appellant is a media organization that has requested notice of special meetings pursuant to KRS 61.823(4). As a remedy for the alleged violations, the Appellant requested the Fiscal Court to ensure the Appellant received notice of special meetings in the future. Having received no response to its complaint, the Appellant initiated this appeal on July 27, 2023.

The record on appeal does not reflect when the Fiscal Court received the Appellant’s complaint. However, in its response to this appeal dated August 2, 2023, the Fiscal Court does not deny receiving the complaint, nor does it claim to have responded to it. Upon receiving a complaint alleging a violation of the Act, a “public agency shall determine within three (3) [business] days . . . after the receipt of the complaint whether to remedy the alleged violation pursuant to the complaint and shall notify in writing the person making the complaint, within the three (3) day period, of its decision.” KRS 61.846(1). Here, the Fiscal Court violated the Act when it failed to respond to the Appellant’s complaint within three business days.

Under KRS 61.823(4)(a), prior to a special meeting, “[a]s soon as possible, written notice shall be delivered personally, transmitted by facsimile machine, or mailed to . . . each media organization which has filed a written request, including a mailing address, to receive notice of special meetings. The notice shall be calculated so that it shall be received at least twenty-four (24) hours before the special meeting.” This notice requirement may be satisfied by email when the media organization states a preference to be notified by email. KRS 61.823(4)(b). The Appellant claims it did not receive notice of the Fiscal Court’s special meetings held on June 29 and July 6, 2023, despite its prior written request to receive such notices. In its response to the appeal, the Fiscal Court does not deny the Appellant’s allegations,¹ but merely states that, “[i]n an effort to conform to the statutory requirements of [the Act], a formal notice of special meetings will be sent to the [Appellant] from this point forward.” As the Fiscal Court has not contested the alleged violations, the Office finds it violated the Act by failing to notify the Appellant of the two special meetings in question.²

A party aggrieved by this decision may appeal it by initiating an action in the appropriate circuit court pursuant to KRS 61.846(4)(a). 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/ James M. Herrick
James M. Herrick
Assistant Attorney General

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Distributed to:

Mr. Mark Grayson
Hon. Phillip L. Carter
Johnny W. Osborne, Esq.

¹ The Fiscal Court claims the Appellant’s representative attended the special meetings, but the Appellant disputes this claim. Regardless, the issue is whether the Fiscal Court sent the required written notice to the Appellant, not whether the Appellant was represented at the meetings.

² The Appellant also claims it was not notified of a special meeting held on July 27, 2023. Because that meeting is outside the scope of the Appellant’s original complaint, the issue is not properly before the Office. *See, e.g.*, 22-OMD-017 n.2.