



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

23-ORD-003

January 5, 2023

In re: The Kentucky Democratic Party/City of Somerset

Summary: The City of Somerset (“the City”) violated the Open Records Act (“the Act”) when it failed to notify the Appellant within five business days whether it would comply with six requests to inspect records it received from the requester on the same day.

Open Records Decision

On November 21, 2022, two employees of the Kentucky Democratic Party (the “Appellant”) submitted in total six separate requests to the City. On November 23, 2022, the City responded, stating it would “email [the Appellant] next week with a more substantive response.” On December 3, 2022, the first day after the fifth business day following the City’s acknowledgment of receipt of the request, the Appellant initiated six identical appeals against the City because it had not received any further response.¹

Under KRS 61.880(1), upon receiving a request to inspect 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

¹ Because both requesters work for the same organization and have raised the same issue on appeal, *i.e.*, timeliness, the Office has consolidated these six appeals. *See, e.g.*, 22-ORD-167. Moreover, the Office notes that, on appeal, the City has provided a more substantive response, including 234 responsive records, and has stated it will provide even more responsive records. The Appellant’s six requests spanned 19 different categories of records, including: emails between five individuals; the personnel files, timesheets, and leave requests of six individuals; all records related to three identified organizations; all records related to two named individuals; all speeches or other writings from a named individual; a copy of that named individual’s financial and ethics disclosures; and all lawsuits or complaints filed against the City since 2018. Just as the Office consolidated these appeals, so too may a public agency consolidate multiple requests made on behalf of the same organization and received close in time to one another when considering whether to deny them under KRS 61.872(6).

writing the person making the request, within the five (5) day period, of its decision.” Here, the City’s November 23, 2022 response did not inform the Appellant whether the City would comply with the requests or deny them and explain why. Thus, the City’s responses failed to comply with KRS 61.880(1), and the City issued no other response within five business days of receiving the request. Accordingly, the City violated the Act when it did not fully respond to the Appellant’s request 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/Zachary M. Zimmerer
Zachary M. Zimmerer
Assistant Attorney General

#454-59

Distributed to:

Sebastian Kitchen
Charlotte Flanary
Nick Bradley
John B. Adams
Alan Keck