



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

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23-ORD-019

January 31, 2023

In re: Jeremy Bryant/City of London

Summary: The City of London (“the City”) violated the Open Records Act (“the Act”) when it failed to respond timely to a request for records.

Open Records Decision

On December 19, 2022, Jeremy Bryant (“Appellant”) submitted a request to the City for “all text messages and emails from [a council member’s] personal email and personal cell phone” sent between January 1 and December 10, 2022 to other council members, the London Tourism Commission, and a named individual “regarding city government.” Having received no response to his request, the Appellant initiated this appeal on January 3, 2023.

Under the Act, a public agency must, within five business days of receiving a request to inspect public records, decide whether to grant the request or deny it and explain why. KRS 61.880(1). Alternatively, if requested records are “in active use, in storage or not otherwise available,” the agency may delay inspection of the requested records if it provides the requester a “detailed explanation of the cause” for delay and the “earliest date on which the public record[s] will be available for inspection.” KRS 61.872(5). In either case, the agency must respond to the request within five business days. On appeal, the City does not claim to have complied with this requirement.¹ Thus, the City violated the Act when it failed to issue a timely response.²

¹ The City claims that, “immediately” upon receiving the request, the City Clerk forwarded it to the council member whose messages had been requested. However, because the Appellant requested the records from the City, it was the City’s duty to respond within five business days.

² In subsequent correspondence to this Office, the council member states she has provided the requested records to the City Clerk, and the City states it has forwarded those records to the Appellant. The City notes, however, that the council member withheld some records from the City Clerk and

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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Marcy J. Berry, Clerk
Ms. Kelly Greene

redacted others, without citing specific exceptions to the Act authorizing the withholding or redactions. However, the Appellant has not objected here to the City's withholding or redactions. Accordingly, the Office will not consider new issues on this appeal. The Appellant may submit a new appeal if he believes the City's response is insufficient. *See, e.g.*, 22-ORD-200 n.2; 22-ORD-170 n.2; 22-ORD-142 n.3; 21-ORD-177 (noting the Office may decline to consider new issues raised on appeal when the parties have been unable to fully argue the new issues).