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**23-ORD-059**

March 15, 2023

In re: Chad Heath/Kentucky Transportation Cabinet

**Summary:** The Kentucky Transportation Cabinet (“the Cabinet”) did not violate the Open Records Act (“the Act”) when it did not respond to a request to inspect records that was not submitted to the email address of its official records custodian, which is posted on the Cabinet’s website.

***Open Records Decision***

Chad Heath (“the Appellant”) attempted to email an open records request to the Cabinet. However, he claims he could not find the email address for the Cabinet’s official records custodian. Thus, he sent an email to “info@dmv.com” and “cotoaddriverslicenseteam@ky.gov.” He attached to the email a document titled “open records request,” in which he complained that the Cabinet’s official records custodian’s email address was not on its website, and a request for the “employer identification number that the employees at the . . . Cabinet are employed at [sic].” The Appellant then initiated this appeal, claiming the Cabinet violated the Act by failing to respond to his request.

On appeal, the Cabinet claims it never received the request. It notes “info@dmv.com” is “not a government email address.” Even though the Cabinet does own the other email address, it explains it is used to send driver’s license renewal notices and is “effectively unmonitored.”

A resident of the Commonwealth may submit a request to inspect public records by email. KRS 61.872(2)(b)4. However, he must do so by sending the email to “the e-mail address designated in the public agency’s rules and regulations.” *Id.* Moreover, a public agency “shall display in a prominent location accessible to the public, including on its Web site” those rules and regulations and its records

custodian's email address. KRS 61.876(2). The Cabinet provides proof it complied with KRS 61.876(2) by providing a link to "Request an Open Record" on its website. Clicking that link generates a blank email addressed to the Cabinet's records custodian. Thus, the Cabinet has displayed "on its Web site" its records custodian's email address, "KYTC.OpenRecords@ky.gov."

Because the Appellant did not email his request to the Cabinet's records custodian at the email address posted on its website, he did not comply with KRS 61.872(2)(b)4., and the Cabinet did not receive his request. Accordingly, the Office cannot find that the Cabinet failed to respond to a request it did not receive. *See, e.g.*, 22-ORD-201; 21-ORD-163.<sup>1</sup>

A party aggrieved by this decision may appeal it by initiating action in the appropriate circuit court under KRS 61.880(5) and KRS 61.882 within 30 days from the date of this decision. Under 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 emailed to OAGAppeals@ky.gov.

**Daniel Cameron**  
**Attorney General**

s/ Marc Manley  
Marc Manley  
Assistant Attorney General

#071

Distributed to:

Chad Heath  
Jesse Rowe

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<sup>1</sup> The Appellant's request also did not "describe[e] *the records* to be inspected." KRS 61.872(2)(a) (emphasis added). Rather, the Appellant's request sought information, not public records. The Act does not require a public agency to answer requests for information. *See, e.g.*, 22-ORD-022 (the agency did not violate the Act by denying a request for it to "identify" certain employees or for not providing the "number of empty beds" at a correctional facility because these requests did not describe public records to be inspected). Specifically, the Appellant asked the Cabinet to provide him its employer identification number. Employer identification numbers are not public records, but numbers issued by the United States Internal Revenue Service to identify employers. Such numbers appear on employees' W-2 forms.