



COMMONWEALTH OF KENTUCKY
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23-ORD-182

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In re: Pat Ragland/Lincoln Trail Area Development District

Summary: The Office cannot find that the Lincoln Trail Area Development District (the “District”) violated the Open Records Act (“the Act”) when it failed to respond to a request it did not receive as a result of a spam email filter.

Open Records Decision

On June 9, 2023, Pat Ragland (“Appellant”) emailed a request to the District for copies of “all ‘records’ regarding the actions and votes of the Radcliff-Elizabethtown Metropolitan Planning Organizational Technical Advisory Committee meeting” that took place on March 8, 2023. Having received no response by June 26, 2023, the Appellant initiated this appeal.

Under KRS 61.880(1), upon receiving a request for 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 writing the person making the request, within the five (5) day period, of its decision.” On appeal, the District explains it did not respond to the Appellant’s request because the spam filter for the email account to which the Appellant submitted his request rejected the Appellant’s email. Accordingly, the District claims not to have received the request. This Office has previously found that the interception of requests by spam filters or other anti-phishing programs that prevent requests from reaching the recipient is tantamount to the agency not receiving the request. *See, e.g.,* 23-ORD-153; 23-ORD-

064. Accordingly, the Office cannot find that the District violated the Act when it did not receive the request.¹

A party aggrieved by this decision may appeal it by initiating an 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/ Zachary M. Zimmerer
Zachary M. Zimmerer
Assistant Attorney General

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Distributed to:

Pat Ragland
Alicia Simpson
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¹ After the appeal was initiated, the District responded to the request and advised that it has provided responsive records. However, it is not clear if the records the District provided are responsive to the request. The Appellant sought a record of “actions and votes,” *i.e.*, meeting minutes, taken on March 8, 2023, but the District provided meeting minutes of a meeting conducted on August 10, 2022. On the other hand, the Appellant provided a list of the District’s meeting agendas available on its website, which she appears to have printed on June 23, 2023. The list does not reflect that a meeting occurred on March 8, 2023. Since the District provided its response on appeal, the Appellant has not indicated whether the records were those she seeks. Ultimately, the Office cannot resolve any factual disputes about whether a meeting occurred on March 8, 2023, or whether any minutes from such a meeting have been approved.