



COMMONWEALTH OF KENTUCKY
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23-ORD-191

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In re: Nathaniel Crenshaw/City of Richlawn

Summary: The City of Richlawn (“the City”) did not subvert the intent of the Open Records Act (“the Act”) when it denied a request for records it does not possess but stated that it would continue to search for responsive records.

Open Records Decision

On June 2, 2023, Nathaniel Crenshaw (“Appellant”) submitted a request to the City for “[a]ll records relating to the establishment of a public sewer system on Blenheim Road, Gibson Road, Heady Avenue, Don Allen Road, and Taggart Drive.” On June 3, 2023, the City responded that it would “continue to search for any records from the 1940’s that pertain to the City,” but it had concluded “that the City had nothing to do with the installation of sewers. That was all done by the original developer of the subdivision and was done before the City . . . was incorporated. Therefore, [the City had] no such records.” The City further advised that if it found “anything more,” it would “let [the Appellant] know.” This appeal followed.

“If a person feels the intent of [the Act] is being subverted by an agency short of denial of inspection, including but not limited ... delay past the five (5) day period described in [KRS 61.880(1)] ... the person may complain in writing to the Attorney General, and the complaint shall be subject to the same adjudicatory process as if the record had been denied.” KRS 61.880(4). The Appellant alleges the City subverted the intent of the Act when it did not provide him with responsive records after stating it would continue to search for them.

Upon receiving a request to inspect records, a public agency must decide within five business days whether to grant the request, or deny it and explain why. KRS 61.880(1). Here, the City timely responded to the request and stated that it “ha[s] no such records.” Although the City stated it would “continue to search for [responsive] records” and let the Appellant know if it found any, it had clearly denied the request and explained no responsive records would exist because the City did not install the sewer systems that were the subject of the request. Accordingly, the City did not subvert the Act, within the meaning of KRS 61.880(4), when it denied a request for records it does not possess, notwithstanding its offer to continue searching for them.

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.

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s/ Zachary M. Zimmerer
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Distributed to:

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