



COMMONWEALTH OF KENTUCKY
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23-ORD-206

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In re: Mark Shouse/Lexington-Fayette Urban County Government

Summary: The Lexington-Fayette Urban County Government (“the City”) violated the Open Records Act (“the Act”) when it did not respond to a request to inspect records within five business days of receiving it.

Open Records Decision

On June 16, 2023, Mark Shouse (“Appellant”) submitted a request to the City to inspect records related to outstanding debts owed by a specified business.¹ Having received no response to his request by July 12, 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.” Here, the Appellant claims he submitted his request on June 16, but had not received a response as of July 12. In response, the City claims it did not receive the request until July 10. However, the City also states that it did not issue its response to the request until July 19, the seventh business day after it claims to have received the request. Thus, the City violated the Act when it failed to respond to the Appellant’s request within five business days.²

¹ Specifically, the Appellant sought “the ordinance or statute [the City] is attempting to collect, an inventory of exactly what is claimed to be missing, and prior communications between [the City] and [the business] for each debt claimed due.”

² The City has also stated that it will provide the Appellant with responsive records once he states how he would like the records to be produced.

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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Assistant Attorney General

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Distributed to:

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