



COMMONWEALTH OF KENTUCKY
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23-ORD-340

December 18, 2023

In re: Michael A. Howard/Eastern Kentucky Correctional Complex

Summary: The Eastern Kentucky Correctional Complex (“the Complex”) did not violate the Open Records Act (“the Act”) when it partially denied a request for records that failed to describe the public records to be inspected.

Open Records Decision

Michael A. Howard (“Appellant”) submitted a request to the Complex for copies of records containing two subparts.¹ The second subpart of the Appellant’s request sought “information [including the name and address] of the health care insurance” that is used at the Complex. In a timely response, the Complex denied the second subpart of the Appellant’s request because it “is not required to honor a request for information” under KRS 61.872(1) and (3). This appeal followed.

The Act does not require public agencies to answer questions or provide information. Rather, the Act requires a public agency to make public records available for inspection. KRS 61.872; *Dep’t of Revenue v. Eifler*, 436 S.W.3d 530, 534 (Ky. App. 2013) (“The ORA does not dictate that public agencies must gather and supply information not regularly kept as part of its records.”); *see also* 21-ORD-166 (holding an agency does not violate the Act when it denies a request for information).

¹ The first subpart of the Appellant’s request sought his “individual account transactions from 10-15-2023 until present.” The Complex timely granted the first subpart of the Appellant’s request and provided two pages of responsive records. As a result, any dispute relating to the first subpart of the Appellant’s request is moot. *See* 40 KAR 1:030 § 6.

Here, the Appellant requested information, including the name and address of the health insurance company the Complex uses. It is possible that the information the Appellant requested may be contained in some public records the Complex possesses. However, the Appellant did not specifically request or describe any public records that he wished to inspect. As a result, the Appellant's request failed to "describ[e] the records to be inspected," KRS 61.872(2)(a), and thus, is a request for information. Accordingly, the Complex did not violate the Act when it denied the Appellant's request.

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/ Matthew Ray
Matthew Ray
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Distributed to:

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