



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

RUSSELL COLEMAN
ATTORNEY GENERAL

1024 CAPITAL CENTER DRIVE
SUITE 200
FRANKFORT, KY 40601
(502) 696-5300

24-ORD-057

March 8, 2024

In re: Sarah Little/City of Hodgenville

Summary: The City of Hodgenville (the “City”) violated the Open Records Act (“the Act”) when it failed to properly invoke KRS 61.872(5) to delay its production of public records.

Open Records Decision

On January 17, 2024, Sarah Little (“Appellant”) submitted two requests for copies of “Body Camera Footage with Audio and police reports” related to two specific incidents. On January 24, 2024, the City acknowledged receipt of her requests and stated that the “records requested are not ready at this time.” The City further stated that, “[d]ue to the time it takes to redact the sensitive information from the videos requested it will take at least another week to prepare the documents.” The City noted it would contact the Appellant when the records were ready to be picked up.¹ On February 6, 2024, the Appellant initiated this appeal because she had yet to receive the records she requested.

A public agency has five business days from the receipt of a request for public records made under the Act to fulfill the request or deny it and explain why. KRS 61.880(1). A public agency can delay its production of responsive records beyond five business days if the records are “in active use, in storage or not otherwise available,” but it must “immediately notify the applicant” and give “a detailed explanation of the cause . . . for further delay . . . and earliest date on which the public record[s] will be available for inspection.” KRS 61.872(5).

¹ After the appeal was initiated, on February 13, 2024, the City stated it would provide all requested records by the end of the day.

Here, the City notified the Appellant on January 24, 2024, that, “[d]ue to the time it takes to redact the sensitive information from the videos requested it will take at least another week to prepare the documents.” However, the City did not specifically invoke KRS 61.872(5) or notify the Appellant of the earliest date on which the public records would be available. Although the City stated it would “take at least another week to prepare the documents,” it failed to meet even that self-imposed deadline to provide the records.² As a result, the City violated the Act when it failed to properly invoke KRS 61.872(5) to delay its production of public records.

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.

Russell Coleman
Attorney General

/s/ Matthew Ray
Matthew Ray
Assistant Attorney General

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Distributed to:

Sarah Little
Toni Burton
Jim Phelps
John Nicholas

² On appeal, the City explains that its team handling requests under the Act has six employees with limited manpower available to fulfill open records requests, and that because it rarely gets such requests, it is unfamiliar with redacting videos using its wearable video system client. The City further explains that, because the requested records relate to an “active criminal investigation,” it needed to consult with the prosecutors to be able to release the “reports and videos” after redacting them.