



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

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24-ORD-067

March 20, 2024

In re: Randy Skaggs/Breckinridge County Judge/Executive

Summary: The Office cannot find that the Breckinridge County Judge/Executive's Office ("the agency") violated the Open Records Act ("the Act") when it did not respond to a request to inspect records it claims it did not receive.

Open Records Decision

Randy Skaggs ("Appellant") claims that, on January 22, 2024, he mailed a request to the agency for copies of various records related to the county's animal control shelters.¹ In a box in the top left corner of the request, in large font, the Appellant asked that "All Documents Be Remitted By April 1st, 2024." However, on the second page of the request, in underlined text in the last paragraph, he asked the agency to "inform [him] by Friday, February 9th, 2024, as to whether or not you intend to honor" his request. Having received no response from the agency by February 19, 2024, the Appellant initiated this appeal.

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." KRS 61.880(1). On appeal, the agency claims it never received the request. The Office has routinely found it is unable to resolve factual disputes between the parties to an appeal under KRS 61.880(2)(a), including disputes about whether the public agency received the request. *See, e.g.*, 23-ORD-071; 23-ORD-005; 22-ORD-216; 22-ORD-148; 22-ORD-125; 22-ORD-100; 22-ORD-051; 21-ORD-163. Accordingly, the Office cannot find that the

¹ The Appellant claims to have mailed the same request to all 120 county judge/executives. As proof, he provides a picture of a tray containing several envelopes. However, the only address that is legible in the picture is the address at which the Appellant submitted his request to the Cumberland County Judge/Executive.

agency violated the Act when it did not respond to a request it claims it did not receive.²

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/ Marc Manley
Marc Manley
Assistant Attorney General

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Distributed to:

Randy Skaggs
Maurice Lewis
Nikki Anthony-Armes
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² After receiving notice of this appeal, the agency claims the records are available in its office and has invited the Appellant to “come look.” However, the agency claims it does not “have the staff available to copy all the records” the Appellant has requested. Neither the Appellant nor his foundation are located in Breckinridge County. Accordingly, the Act entitles him to inspect public records by mail after precisely describing the records. KRS 61.872(3)(b). The agency has not claimed that the Appellant’s request failed to precisely describe the records, but only that it is unable to make copies of the records and mail them to him. The agency’s lack of employees does not excuse it from the requirements of the Act.

