



COMMONWEALTH OF KENTUCKY OFFICE OF THE ATTORNEY GENERAL

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24-ORD-069

March 20, 2024

In re: Randy Skaggs/Franklin County Judge/Executive

Summary: The Office cannot find that the Franklin County Judge/Executive (“the agency”) violated the Open Records Act (“the Act”) when it provided proof it issued a timely response to a request to inspect records. The Office cannot resolve factual disputes, such as whether the requester received a copy of the agency’s response.

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. The Appellant then initiated this appeal on February 19, 2024, claiming to have not received a response from the agency.

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 provides proof it responded to the request by email on February 2, 2024. While it is unclear when the agency received the Appellant’s request, he explicitly allowed the agency until February 9, 2024, to comply with KRS 61.880(1). Although the Appellant initiated his appeal by claiming to have never received the agency’s

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.

response,² the Office has routinely found it cannot resolve factual disputes between the parties, such as whether the requester received the agency's response. *See, e.g.*, 23-ORD-335; 23-ORD-220; 21-ORD-233. Accordingly, the Office cannot find that the agency violated the Act.

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
Michael Muller
Max Comley

² The Appellant initiated 79 appeals by providing one copy of his request and a list of county judge/executives he claims never responded to his request. Because KRS 61.880(2)(a) only requires a requester to provide a copy of his request to seek the Office's review of an agency's alleged failure to respond, the Office processed all 79 appeals to review that question only. To the extent the Appellant objects to the agency's reasons for denying his request—by asking him to provide a statement of residency and to state whether the records would be used for a commercial purpose—he did not properly invoke the Office's jurisdiction to review that question. To seek the Attorney General's review of an agency's *denial* of a request, the requester must provide a copy of both his original request and the agency's denial. KRS 61.880(2)(a). Accordingly, whether the agency complied with the Act by asking the Appellant to provide a statement of residency and statement as to whether the records would be used for a commercial purpose is not properly before the Office. *But see, e.g.*, 22-ORD-120 (a P.O. Box is sufficient to establish residency); 24-ORD-021 (an agency may require a requester to provide a statement as to whether the records will be used for a commercial purpose).