



COMMONWEALTH OF KENTUCKY OFFICE OF THE ATTORNEY GENERAL

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24-ORD-081

March 20, 2024

In re: Mark Hardin/Jefferson County Master Commissioner

Summary: The Open Records Act (“the Act”) does not apply to the Jefferson County Master Commissioner (“the Master Commissioner”).

Open Records Decision

Mark Hardin (“Appellant”) submitted a request to inspect “[a] surplus sales report of the 2023 sales results,” including any “surplus funds leftover from 2023 property foreclosures.” The Master Commissioner timely denied the Appellant’s request because the Act does not apply to records maintained by the judicial branch.¹ This appeal followed.

Although KRS 61.880(2) charges the Attorney General with the duty to resolve disputes regarding access to public records, the Act is not binding on the judicial branch. *Ex parte Farley*, 570 S.W.2d 617, 624 (Ky. 1978). Because the Master Commissioner is an agent of the judicial branch, the Act does not apply to her records.² *See, e.g.*, 02-ORD-235 (finding that a Master Commissioner did not violate the Act in failing to respond to a request for records); 98-ORD-6 (finding the Act does not apply to records maintained by the judicial branch of government). Accordingly, the Office dismisses the appeal.³

¹ However, the Master Commissioner notified the Appellant that her website “contains past judicial sale results from 2011 through the latest judicial sale” and that “[t]he court files for those sales are available for review at the Jefferson Circuit Court Clerk’s office.” The Master Commissioner also provided that office’s location and the location of the Department of the Treasury. The Master Commissioner further noted that, even if “the sale bid may exceed the amount of the judgement of the party bringing the sale,” that does not mean there are surplus funds.

² The Master Commissioner’s office is created by KRS 31A.010 and CR 53.01. The Office has previously opined that a Master Commissioner is a representative, assistant, and officer of the court that appoints him or her. *See* OAG 77-186; OAG 81-108; OAG 81-313; OAG 82-7; OAG 82-24.

³ The Office notes that the Supreme Court of Kentucky has adopted its own policies and procedures for requesting copies of court records from the judicial branch. Information on requesting court 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:

Mark Hardin
Carole C. Schneider

is posted on the Court of Justice website at <https://www.kycourts.gov/Pages/open-records-request.aspx>
(last accessed Mar. 20, 2024).