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24-ORD-092

April 3, 2024

In re: Jason Easley/City of Cloverport

Summary: The City of Cloverport (the "City") violated the Open Records Act ("the Act") when it did not properly invoke KRS 61.872(5) to delay access to records.

Open Records Decision

On March 4, 2024, Jason Easley ("Appellant") submitted a request to the City for copies of "detailed bank statements" from the previous four months for 13 bank accounts. On March 8, 2024, the Appellant inquired about the status of his request, and on March 11, 2024, the City stated it "will take some time to redact the account numbers on each check for each account." On March 12, 2024, having received no further response from the City, the Appellant initiated this appeal.

Upon receiving a request to inspect records, a public agency must decide within five business days whether to grant the request, or deny the request and explain why. KRS 61.880(1). A public agency may also delay access to responsive records beyond five business days if such records are "in active use, storage, or not otherwise available." KRS 61.872(5).

A public agency that invokes KRS 61.872(5) to delay access to responsive records must also notify the requester of the earliest date on which the records will be available and provide a detailed explanation for the cause of the delay. The Office has previously found that a public agency fails to justify a delay when it does not explain how long it would take to process responsive records. *See, e.g.,* 23-ORD-328 (the public agency did not properly justify a six-month delay to fulfill a request implicating 382 "data files" when it failed to explain what it meant by "data file" or how long it would take to process each record).

Here, the Appellant submitted his request on March 4, 2024, but the City's only response was that it "will take some time to redact the account numbers on each check for each account." The City did not specifically invoke KRS 61.872(5), notify the Appellant of the earliest date on which the records would be made available, or provide a detailed explanation for the cause of the delay.[1] As a result, the City violated the Act when it did not properly invoke KRS 61.872(5) to delay the Appellant's access to the requested records beyond five business days.

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:

Jason Easley
Keri Lee
Stephen Hopkins
Candy Weatherholt

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[1] On appeal, the City asserts that the requested records are "currently under review and a number of records may be exempt by KRS 61.878(1)(h) and other records are banking records." While the Office has previously upheld the redaction of bank account numbers to relieve agencies of the burden of changing accounts after the information is released, 22-ORD-112, it is not clear how KRS 61.878(1)(h) would apply to the withheld records because the City is not a "law enforcement agency." The City further asserts that the Appellant "may not meet the definition of KRS 61.870," but does not explain what it means. The only provision of KRS 61.870 relevant to the Appellant is the definition of "resident of the Commonwealth," which the Appellant meets. KRS 61.870(10). The City does not provide any further details to support its actions, other than stating it is conducting a meeting "to further determine the requests for records."