



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

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24-ORD-120

May 13, 2024

In re: Todd Conley/Paintsville Lake State Park

Summary: The Paintsville Lake State Park (the “Park”) did not violate the Open Records Act (“the Act”) when it issued a response to a request within five business days of receiving the request.

Open Records Decision

Todd Conley (“Appellant”) claims that on April 2, 2024, he submitted a request to the Park for two lease agreements. On April 15, 2024, the Appellant initiated this appeal claiming that he did not receive “a response in 3 days.”

Under KRS 61.880(1), 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.” On appeal, the Park asserts that it received the Appellant’s request on April 9, 2024, via email.¹ The Park further asserts it granted the request on April 12, 2024, and provided 98 pages of responsive records to the Appellant. As proof, the Park provides a copy of the request it received from the Appellant on April 9, 2024, which was dated April 2, 2024, and its response to that request, dated April 12, 2024. Accordingly, the Park did not violate the Act when it timely issued its response to the Appellant’s request within five business days of receipt.²

¹ The Park also states that it received a similar but different written request from the Appellant on April 5, 2024, and provides a copy of that request. However, the Appellant did not provide this request to the Office as part of his request for appeal, and as a result, the Office cannot consider it as part of this appeal. See KRS 61.880(2)(a).

² The Appellant also claims that in March 2024 he made a similar request and “was told [he] filed the wrong form and was given the correct form by” the Park, which he returned on April 2, 2024. The Park disputes the Appellant’s claim that it required him to use a specific form. Instead, the Park asserts that the Appellant’s first request on March 25, 2024, was a verbal request for records. An

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:

Todd Conley
Robyn E. Howard

application to inspect must be in writing and an agency is not obligated to respond to verbal requests for records. *See* KRS 61.872(2). However, an agency “shall not require the use of any particular form for the submission of an open records request.” KRS 61.872(2)(c). Ultimately, there is a factual dispute between the parties as to whether the Appellant’s initial request was made verbally or if the Park required him to use a specific form. The Office cannot resolve factual disputes such as these in appeals made under the Act. *See, e.g.*, 23-ORD-330 (factual dispute about whether meeting minutes had been made final); 23-ORD-317 (factual dispute about whether all responsive records were provided). Similarly, the Office cannot resolve any factual dispute between the parties about whether the Appellant actually received the Park’s response. *See, e.g.*, 23-ORD-220; 21-ORD-233.