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OFFICE OF THE ATTORNEY GENERAL

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25-OMD-117

May 5, 2025

In re: Robin Vessels/Oldham County Fiscal Court

Summary: The Oldham County Fiscal Court (“the Fiscal Court”) violated the Open Meetings Act (“the Act”) when it discussed public business in closed session. KRS 61.810(1)(g) does not authorize closed discussions of a proposal from a business entity, on the grounds that open discussions would jeopardize the siting of the business, when the location of the project is already known to the public.

Open Meetings Decision

On April 2, 2025, in a written complaint submitted under KRS 61.846(1), Robin Vessels (“the Appellant”) alleged that the Fiscal Court had violated the Act at its regular meeting on April 1, 2025, when it held a closed session under KRS 61.810(1)(g) to discuss a proposal by Western Hospitality Partners, Kentucky, LLC (“Western Hospitality”) to construct a data center on a site in Oldham County. Specifically, the Appellant claimed the exception to the Act under KRS 61.810(1)(g) did not apply because the siting of the business “had already been disclosed to the public through a press release to the Oldham Era” prior to the meeting. As a remedy for the alleged violation, the Appellant requested that the Fiscal Court declare null and void any action taken in closed session and repeat its discussions in public at its next regular meeting. In a timely response, the Fiscal Court denied that it had violated the Act. This appeal followed.

Under KRS 61.810(1), “[a]ll meetings of a quorum of the members of any public agency at which any public business is discussed or at which any action is taken by the agency, shall be public meetings, open to the public at all times,” subject to certain exceptions. Among these exceptions is KRS 61.810(1)(g), which exempts “[d]iscussions between a public agency and a representative of a business entity and discussions concerning a specific proposal, if open discussions would jeopardize the siting, retention, expansion, or upgrading of the business.” Here, the Appellant argues the conditions were not present for KRS 61.810(1)(g) to apply because the Fiscal Court has not shown how “open discussions would jeopardize the siting,

retention, expansion, or upgrading of the business.” The Appellant has provided documentation showing the public’s awareness of the project location prior to the meeting. This documentation includes an Application for Technical Review Committee filed with Oldham County Planning and Development Services on March 19, 2025, and a March 28, 2025, news article from the *Oldham Era* stating the exact location proposed for the data center.

Under KRS 61.800, “the exceptions provided for by KRS 61.810 or otherwise provided for by law shall be strictly construed.” Accordingly, the Office has consistently interpreted KRS 61.810(1)(g) as applicable “only if open discussion would jeopardize the business entity’s *undisclosed* interest in siting, retention, expansion, and/or upgrading of the business” in a certain location. 05-OMD-148 (emphasis added); *see also* 03-OMD-089. Thus, discussions may not be held in closed session under KRS 61.810(1)(g) when “the public knows the project’s location.” 22-OMD-057. Here, the Appellant has provided ample evidence that the planned location of the data center was already known to the general public.

Furthermore, the same action by the Fiscal Court was the subject of a prior open meetings appeal. In 25-OMD-103, the Office found the Fiscal Court violated the Act by conducting discussions of the project in closed session because the location of the proposed data center was known to the public and KRS 61.810(1)(g) does not apply when the location of the project is publicly known. Here, the Fiscal Court has presented no basis to support a contrary finding.¹ Accordingly, the Office finds that the Fiscal Court violated the Act when it discussed public business in closed session without specific authority under the Act.

A party aggrieved by this decision may appeal it by initiating an action in the appropriate circuit court pursuant to KRS 61.846(4)(a). 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/ James M. Herrick
James M. Herrick
Assistant Attorney General

¹ In this appeal, the Fiscal Court restated the same arguments it made in 25-OMD-103.

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Distribution:

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Hon. David Voegele