



## COMMONWEALTH OF KENTUCKY OFFICE OF THE ATTORNEY GENERAL

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**25-OMD-157**

June 17, 2025

In re: Rob Mattheu/Oldham County Fiscal Court Economic Development Committee

**Summary:** The Oldham County Fiscal Court's Economic Development Committee ("the Committee") violated the Open Meetings Act ("the Act") when it failed to issue a written response to a complaint within three business days. In appeals to the Office under the Act, the Office cannot resolve factual disputes or determine the credibility of witnesses. Accordingly, the Office cannot find that the Committee violated KRS 61.810(1) by taking action or conducting public business at a meeting that was not open to the public.

### ***Open Meetings Decision***

In a written complaint submitted on May 27, 2025, Rob Mattheu ("Appellant") alleged the Committee had violated the Act when its three members attended a meeting on May 22, 2025, allegedly to discuss "a Data Center proposed by Western Hospitality Partners." The Appellant alleged no notice was provided to the public prior to this meeting. As a remedy, the Appellant proposed that all information discussed by the Committee be documented and presented at the next full meeting of the Oldham County Fiscal Court ("the Fiscal Court") and that all members of the Fiscal Court receive training on the Open Meetings and Open Records Acts. On June 3, 2025, having received no response from the Committee, the Appellant initiated this appeal.

Upon receiving a complaint alleging a violation of the Act, a "public agency shall determine within three (3) business days . . . after the receipt of the complaint whether to remedy the alleged violation pursuant to the complaint and shall notify in writing the person making the complaint, within the three (3) day period, of its decision." KRS 61.846(1). On appeal, the Committee does not deny that it failed to respond to the Appellant's complaint. Thus, the Committee violated the Act.

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,” with certain exceptions not relevant here. Under KRS 61.805(3), “action taken” means “a collective decision, a commitment or promise to make a positive or negative decision, or an actual vote by a majority of the members of the governmental body.” For purposes of the Act, the discussion of “public business” is “not simply any discussion between two officials of the agency,” but “the discussion of the various alternatives to a given issue about which the [agency] has the option to take action.” *Yeoman v. Commonwealth, Health Policy Bd.*, 983 S.W.2d 459, 474 (Ky. 1998).

Before proceeding to the merits of the Appellant’s complaint, the Office must first address its limitations. While the Attorney General recognizes his duty to review complaints and agencies’ responses thereto to determine whether a violation of the Act has occurred, KRS 61.846(2), the Office cannot resolve competing factual claims about events that may or may not have transpired. *See, e.g.*, 00-OMD-169. The Act does not permit the Office to issue subpoenas, take testimony, or judge the credibility of witnesses. Nor could it, even if authorized to do so, in the short time frame allowed this Office to render a decision. *See* KRS 61.846(2) (requiring the Attorney General to issue a decision within ten business days). Disputes that turn heavily on competing evidence are better suited for review in circuit court. *See* KRS 61.848; *see also* 25-OMD-110 (finding the Office could not resolve a factual dispute regarding alleged violations of KRS 61.810(2)); 23-OMD-103 (same). This is one such case.

Here, the Appellant alleges that the May 22, 2025, meeting was a public meeting of the Committee at which public business was discussed and therefore subject to KRS 61.810(1). Specifically, the Appellant alleges that “a site for WHP” was discussed. As proof, the Appellant provided the Office with a calendar invitation labeled “WHP Meeting – Site Discussion.”<sup>1</sup> He also directs the Office’s attention to a June 2, 2025, statement by the Oldham County Judge/Executive, stating that Western Hospitality Partners has “filed an alternate plan” for a data center at a new location. For its part, the Committee states that it did not organize the May 22 meeting. Rather, it explains that the meeting was organized by a member of Oldham Chamber & Economic Development<sup>2</sup> and that Oldham County Magistrates “regularly

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<sup>1</sup> The Appellant states that he is not certain whether the invitation was either provided by or to the Oldham County Judge/Executive.

<sup>2</sup> Oldham Chamber & Economic Development is the assumed name of Oldham County Chamber of Commerce, Inc.

attend informational meetings arranged by other organizations at which various issues affecting the work of county government is discussed.”<sup>3</sup> Regarding the May 22 meeting, the Committee maintains that “no formal business was conducted [and] no decisions [were] made.”

There is no dispute that a quorum of the Committee attended the May 22 meeting. However, “[t]he mere fact that a quorum of members of a public agency are in the same place at the same time, without more, is not sufficient to sustain a claim of a violation of the Act.” *Yeoman*, 983 S.W.2d at 474. Rather, the Act prohibits a quorum of a public agency's members from taking action or discussing public business unless the meeting is open to the public. *See id.*; *see also* KRS 61.810(1). Here, however, the record before the Office does not allow it to determine whether the Committee took any action or discussed any public business at the May 22 meeting. Although the Appellant asserts that a discussion of public business occurred, he also admits that “it is not clear what happened at” the May 22 meeting. And the Committee maintains that it did not coordinate the meeting and did not conduct any public business at the meeting. An allegation that public business was conducted or discussed, standing alone, is not evidence that such action or discussions did occur, especially when denied by the public agency. *See* 23-OMD-103 (“The mere stated belief that secret meetings occurred is not evidence that they did occur, especially not when rebutted by the Board members, who swear such meetings did not occur.”); *see also* 18-OMD-060 (holding that mere speculation that secret meetings must have occurred is insufficient).

There exists a factual dispute regarding what occurred at the May 22 meeting. The Appellant admits “it is not clear what happened at this meeting” but maintains the meeting must have included a discussion of public business. The Committee denies coordinating the meeting or conducting any public business. At bottom, the record before the Office is entirely devoid of any evidence regarding the conduct of the Committee members at the May 22 meeting. Accordingly, the Office cannot find the Committee violated the Act by taking action or conducting public business at a meeting which was not open to the public.

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

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<sup>3</sup> The Office has previously noted that the Act does not prohibit local government officials from attending conferences or educational opportunities. *See* KRS 61.810(2) (“Nothing in [KRS 61.810(2)] shall be construed to prohibit discussions between individual members where the purpose of the discussions is to educate the members on specific issues.”).

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/ Zachary M. Zimmerer  
Zachary M. Zimmerer  
Assistant Attorney General

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Distributed to:

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