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25-OMD-186

July 18, 2025

In re: Sarah Little/ 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. 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 or during a trip attended by its members.

***Open Meetings Decision***

In a complaint submitted to the Committee on July 1, 2025, Sarah Little ("Appellant") alleged the Committee violated the Act when its three members attended a May 22, 2025, meeting to allegedly discuss a data center proposed by Western Hospitality Partners. The Appellant further alleges the Committee violated the Act during a trip to Virginia during which she says "information was gathered about data centers and how the proposal may translate to Oldham County." On July 8, 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 was subject to KRS 61.810(1). The Appellant’s allegations are the same as those discussed in 25-OMD-157. There, the Office acknowledged the lack of evidence regarding what had taken place at the May 22 meeting and the dueling descriptions of what had occurred. Here too, the Appellant asserts that public business was discussed but the Committee disagrees. Restating its prior position, the Committee explains that it did not organize the May 22 meeting, that the meeting was organized by a member of Oldham Chamber & Economic Development,<sup>1</sup> and that Oldham County magistrates “regularly attend informational meetings arranged by other organizations at which various issues affecting the work of county government is discussed.”<sup>2</sup> Finally, the

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<sup>1</sup> Oldham Chamber & Economic Development is the assumed name of Oldham County Chamber of Commerce, Inc.

<sup>2</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.”).

Committee maintains that “no formal business was conducted [and] no decisions [were] made” at the May 22 meeting.

New to this appeal, the Appellant has provided nine audio recordings, which she asserts proves the Committee discussed public business at the May 22 meeting. Regarding the content of those records, the Appellant only directs the Office to a single statement by the Oldham County Judge/Executive to the effect that a particular location for the data center would not be approved. In response, the Committee states that the statement of the Judge/Executive—who is not a member of the Committee—was an expression of his personal opinion, not evidence of a final agency decision, and that the Appellant’s recording omits the context of that statement.

The Committee’s response highlights the factual issues remaining in this appeal. Although the Committee does not argue that the recordings are inaccurate, it points out that providing short excerpts of an audio recording from a meeting may not completely provide the context for any statement. Moreover, the Office notes its inability to identify the speakers whose voices are on the audio recording. The Appellant alleges that at least 15 individuals attended the May 22 meeting, including the three members of the Committee. At no point is it apparent whether the recorded speaker is a member of the Committee or one of the numerous other attendees at the meeting. Given these limitations, the Office is unable to make factual findings about what occurred at the May 22 meeting based solely on the recordings.

At bottom, there exists a factual dispute regarding what occurred at the May 22 meeting. The recordings provided by the Appellant do not establish a record upon which the Office can rely to determine whether the Committee violated the Act. Although the Appellant maintains that the May 22 meeting included a discussion of public business, the Committee denies coordinating the meeting or conducting any public business at that meeting. Accordingly, just as in 25-OMD-157, the Office cannot find the Committee violated the Act by taking action or conducting public business at the May 22 meeting.

Regarding the Committee’s trip to Virginia, the Office has previously held that attendance of a quorum of a public agency at a gathering organized by another entity does not constitute a meeting within the meaning of KRS 61.805(1). *See* 95-OMD-136 (finding that “the attendance by a quorum of the members of the [agency] at [an event] organized by someone other than the [agency] does not in and of itself constitute a meeting of the [agency]”). Indeed, “[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, the Committee denies taking any action or discussing public business during its Virginia trip. Although the Appellant describes the aspects of data centers about which the Committee members allegedly learned while on the trip, it is not clear from her complaint what action was allegedly taken or what public business was allegedly discussed.<sup>3</sup> Given the absence of facts regarding what occurred during the Committee’s Virginia trip, and in light of the Committee’s denial that it took any action or discussed any public business, the Office cannot find the Committee violated the Act during its Virginia trip.

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

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Distributed to:

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Mr. Wayne Theiss

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<sup>3</sup> The Appellant’s chief allegation is that a test of light and sound was conducted during the Virginia trip, which she says is evidence of an intent to “appl[y] the actions directly to Oldham County.” She argues such a test would not be required “on a purely informative tour.” Setting aside the accuracy of the Appellant’s conclusion, that allegation is not evidence that the Committee took action or discussed public business during the trip.