



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

RUSSELL COLEMAN
ATTORNEY GENERAL

1024 CAPITAL CENTER DRIVE
SUITE 200
FRANKFORT, KY 40601
(502) 696-5300

25-OMD-226

August 22, 2025

In re: Miles Hoskins/Oldham County Fiscal Court

Summary: The Oldham County Fiscal Court (“the Fiscal Court”) violated the Open Meetings Act (“the Act”) when it failed to give proper notice under KRS 61.815(1)(a) of a closed session conducted under KRS 61.810(1)(b). However, the Fiscal Court did not take final action in closed session, within the meaning of KRS 61.815(1)(c), and did not discuss other matters in closed session in violation of KRS 61.815(1)(d).

Open Meetings Decision

On August 6, 2025, in a written complaint submitted under KRS 61.846(1), Miles Hoskins (“the Appellant”) alleged the Fiscal Court had violated the Act at its meeting on August 5, 2025. Specifically, he claimed the Fiscal Court had violated KRS 61.815(1)(c) when it conducted a closed session under KRS 61.810(1)(b) for deliberations on the future acquisition of real property and subsequently, in open session, voted to allow the Oldham County Judge/Executive (“the Judge/Executive”) to negotiate to purchase a piece of property “without identifying the property, its intended public use, or budgetary limits.” The Appellant alleged the Fiscal Court had taken “final action” in closed session and failed to keep the public “reasonably informed of what [was] being voted on.”

Additionally, the Appellant alleged that, during the same closed session, “the Fiscal Court paused to take a photograph with a departing member and briefly discussed his departure,” which he claimed was a violation of KRS 61.815(1)(d). As a remedy for the alleged violations, the Appellant requested the Fiscal Court issue a public statement identifying the “address or location of the property,” the “budgetary limits or financial range approved for negotiation,” and the “intended public use of the property”; declare “the motion and any related acts null and void”; and reconsider the matter at its next meeting.

In a timely response, the Fiscal Court denied violating the Act. The Fiscal Court stated the Judge/Executive was only “authorized to negotiate” and “[n]o final

action was taken as in order to spend the money to make the purchase, his actions will need to be ratified in open court should a deal be struck.” Emphasizing that disclosure of the location or intended purpose of the property would compromise its negotiating position because “publicity might result in other offers to purchase which could result in a higher purchase price,” the Fiscal Court asserted it had acted properly under KRS 61.810(1)(b). Regarding the photograph, the Fiscal Court stated it “was taken in the Fiscal Courtroom where anyone could see and was definitely not any action of the Fiscal Court that could rise to the level of any Open Meetings violation.” 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 exemptions. Among these exemptions is KRS 61.810(1)(b), which exempts “[d]eliberations on the future acquisition or sale of real property by a public agency, but only when publicity would be likely to affect the value of a specific piece of property to be acquired for public use or sold by a public agency.” Here, the Appellant does not dispute the Fiscal Court’s assertion that publicity surrounding the Fiscal Court’s interest in the property would likely affect its value.

However, before a public agency conducts a closed session authorized by KRS 61.810(1)(b), “[n]otice shall be given in regular open meeting of the general nature of the business to be discussed in closed session, the reason for the closed session, and the specific provision of KRS 61.810 authorizing the closed session[.]” KRS 61.815(1)(a). This threefold notice “must be specific and complete.” *Floyd Cnty. Bd. of Educ. v. Ratliff*, 955 S.W.2d 921, 924 (Ky. 1997). As the Office has noted, KRS 61.815(1)(a) requires “more than agency recitation of [the] language of the exception authorizing the closed session, but less than a detailed description of the matter to be discussed.” 00-OMD-64. To state the “general nature of the business,” it is “minimally sufficient” for the agency to specify whether the agency is contemplating an acquisition or a sale of property. 10-OMD-059. To articulate “the reason for the closed session,” the agency must “indicate that publicity [is] likely to affect the value of that property.” 03-OMD-047.

Here, the Appellant cites the video record of the meeting, which contains the notice given by the Judge/Executive: “I’d like to recommend we go into executive session pursuant to KRS 61.810 subsection (b) [sic] regarding deliberations on the future acquisition or sale of real property by a public agency.”¹ While this notice identified, albeit imperfectly, the provision authorizing the closed session, it did not state the general nature of the business to be discussed, *i.e.*, whether it pertained to

¹ See <https://www.youtube.com/watch?v=mE0Bxq1VTX8>, at 59:37–59:54 (last accessed Aug. 13, 2025).

an acquisition or a sale.² Nor did the Fiscal Court give notice of the reason for the closed session, *i.e.*, that publicity was likely to affect the value of the property. Therefore, the Fiscal Court violated KRS 61.815(1)(a).

Under KRS 61.815(1)(c), “[n]o final action may be taken at a closed session[.]” In his complaint, the Appellant claimed the Fiscal Court took final action in closed session by “authorizing negotiation on an undisclosed property” without identifying the property, its intended use, and the “budgetary limits or financial range approved for negotiation.” But the Act defines “action taken” as “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[.]” KRS 61.805(3). The Appellant does not dispute that the *vote* to authorize the Judge/Executive to conduct negotiations occurred in open session. The fact that the location, intended use, and negotiating price range of the property were not publicly disclosed does not transform the Board’s closed discussions into a “final action.” Rather, these nondisclosures are incidental to the ordinary use of KRS 61.810(1)(b) when the agency’s interest in a piece of property is not publicly known. *See, e.g.*, 21-OMD-086; 19-OMD-038; 02-OMD-166; *see also Bd. of Comm’rs of City of Danville v. Advoc. Commc’ns, Inc.*, 527 S.W.3d 803, 807 (Ky. 2017) (noting that a vote in open session to bid on a property at auction “would not require disclosure of the maximum authorized bid”).³ Therefore, the Fiscal Court did not take final action in closed session within the meaning of KRS 61.815(1)(c).⁴

Finally, under KRS 61.815(1)(d), “[n]o matters may be discussed at a closed session other than those publicly announced prior to convening the closed session.” The Appellant claims the Fiscal Court violated this provision by taking a photograph

² The Fiscal Court arguably identified the topic as an acquisition of property *after* the closed session, when it considered a motion to authorize the Judge/Executive “to make an offer to buy an undisclosed piece of property.” *See* <https://www.youtube.com/watch?v=mE0Bxq1VTX8>, at 1:59:13–1:59:19 (last accessed Aug. 13, 2025). However, this does not cure the violation, as the use of the passive infinitive in KRS 61.815(1)(a) (“the business *to be discussed* in closed session”) clearly contemplates the notice occurring prior to the closed session. *See also* KRS 61.815(1)(d) (“No matters may be discussed at a closed session other than those publicly announced *prior to* convening the closed session” (emphasis added)).

³ In *Danville*, the Court found the agency had not properly invoked KRS 61.810(1)(b). That case is distinguishable by the fact that “the decision to bid on and to buy the property [was] made in closed session” after the mayor and the bidding agent had already signed the auction registration form, and thus, “any privacy regarding the City’s intention to bid was gone.” *Id.* at 807.

⁴ On appeal, the Appellant claims for the first time that the Fiscal Court took final action in closed session by authorizing an actual purchase of the property. This argument is based entirely on a verbal miscue by the Judge/Executive while calling for a vote on the motion to authorize a purchase offer, *i.e.*, “Motion made for me to buy an un— negotiate to buy an undisclosed piece of property.” *See* <https://www.youtube.com/watch?v=mE0Bxq1VTX8>, at 1:59:21–1:59:28 (last accessed Aug. 13, 2025). However, the Office cannot consider a new allegation on appeal that was not included in the written complaint. *See, e.g.*, 25-OMD-212.

with a departing member⁵ during the closed session and briefly discussing his departure. However, the Act only requires open discussions on matters of “public business.” KRS 61.810(1). “Public business” under KRS 61.810(1) is “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). Mere casual conversation⁶ about the fact that a member or employee is departing, or the members’ desire to take a photograph with him, without more, is not a discussion of “public business,” as it does not pertain to alternatives on an issue upon which the Fiscal Court is authorized to take action. Further, as the Fiscal Court points out, the photograph and related conversation took place in the presence of the public, “before anyone left the Fiscal Courtroom to adjourn to the room where the closed session occurred.” Therefore, the Fiscal Court did not violate KRS 61.815(1)(d) by discussing other matters in closed session.⁷

A party aggrieved by this decision may appeal it by initiating 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 e-mailed to OAGAppeals@ky.gov.

Russell Coleman
Attorney General

/s/ James M. Herrick
James M. Herrick
Assistant Attorney General

⁵ In its response to this appeal, the Fiscal Court identifies this individual not as a Fiscal Court member, but as “a County Employee who took a new job.” However, the person’s identity is immaterial to the issues on appeal.

⁶ The Fiscal Court describes the conversation as “wishing the departing employee well.”

⁷ The Appellant additionally asks the Office to “[d]irect the Fiscal Court to cure [its] violations in accordance with KRS 61.848, including declaring the action taken null and void if warranted.” Under KRS 61.846(2), however, the Attorney General’s jurisdiction is limited to issuing “a written decision which states whether the agency violated” the Act. *See, e.g.*, 07-OMD-196; 98-OMD-74. Accordingly, the Office does not have jurisdiction to grant any specific remedy for a violation. *See, e.g.*, 21-OMD-074 n.1. An action taken by a public agency “without substantial compliance with” the Act is only “voidable by a court of competent jurisdiction.” KRS 61.848(5).

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Distributed to:

Mr. Miles Hoskins

David Berry Baxter, Esq.

Hon. David Voegele