



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

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25-ORD-067

March 18, 2025

In re: Riki Davis/Lexington–Fayette Urban County Government

Summary: The Office cannot find that the Lexington–Fayette Urban County Government (“LFUCG”) violated the Open Records Act (“the Act”) because the Office cannot resolve the factual dispute between the parties concerning the issuance and receipt of a response to a request for records.

Open Records Decision

On February 2, 2025, Riki Davis (“the Appellant”) requested emails of three named LFUCG employees from December 12, 2024, to January 14, 2025, pertaining to her or containing certain keywords. LFUCG received the request on February 3, 2025. Having received no response by February 18, 2025, the Appellant initiated this appeal.

Under KRS 61.880(1), a public agency must respond within five business days after receipt of a request for records. Here, the Appellant claims LFUCG failed to timely respond to her request. However, LFUCG claims it responded and provided the requested records to the Appellant on February 6, 2025, but “inadvertently sent [the response] to the incorrect email address (the Appellant’s old LFUCG work email address).” After receiving this appeal, LFUCG corrected its error and sent a duplicate response to the correct email address on February 24, 2025.¹

The Office cannot adjudicate disputed issues of fact, such as when an agency issued a response or whether the response was received. *See, e.g.*, 24-ORD-040. Here, moreover, it appears LFUCG did issue a timely response but merely made an error in sending it to the wrong email address. *See, e.g.*, 23-ORD-315 (declining to resolve the factual dispute regarding whether the agency knew its response was sent to a misspelled email address). Accordingly, the Office cannot find that the Department violated the Act.

¹ The merits of LFUCG’s response are not at issue in this appeal.

A party aggrieved by this decision may appeal it by initiating an action in the appropriate circuit court pursuant to KRS 61.880(5) and KRS 61.882 within 30 days from the date of this decision. Pursuant to 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/ James M. Herrick
James M. Herrick
Assistant Attorney General

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Distribution:

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