



COMMONWEALTH OF KENTUCKY OFFICE OF THE ATTORNEY GENERAL

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25-ORD-136

May 23, 2025

In re: LaWanna Wallen Brock/Kentucky Board of Cosmetology

Summary: The Kentucky Board of Cosmetology (“the Board”) did not violate the Open Records Act (“the Act”) when it denied a request for failure to state the manner in which the requester was a resident of the Commonwealth of Kentucky.

Open Records Decision

LaWanna Wallen Brock (“the Appellant”) made three requests to the Board for copies of records, the third of which is at issue in this appeal. However, the two prior requests are procedurally relevant as to the issue of the Appellant’s residency.

In her first request, submitted on April 28, 2025, the Appellant stated, “I affirm that I am a resident of the Commonwealth.” Because the Appellant had various pending legal proceedings against the Board at the time, in which she was represented by counsel, the Board contacted the Appellant’s attorney on May 5, 2025, to ask whether the Appellant could be contacted directly regarding the request. The Board further indicated it intended to ask the Appellant “to provide a statement, pursuant to KRS 61.872(2)(a), of the manner in which she is a resident of the Commonwealth.” Later that day, the Appellant withdrew her request.¹

On May 6, 2025, the Appellant submitted what she described as an expanded and “improved” version of her original request. That request was apparently contained in a Microsoft Word document attached to an email. In the email, the Appellant described her pending litigation against the Board, stating, “As for proof of residency, at all times relevant, I *was* employed in Kentucky and *owned* a business there” (emphasis added). However, in pursuing this appeal, the Appellant has provided only the email and not the attachment containing the request. “If a

¹ In the email withdrawing her request, the Appellant included some remarks suggesting that she believed all statutory residency requirements should be considered unconstitutional.

complaining party wishes the Attorney General to review a public agency's denial of a request to inspect a public record, the complaining party shall forward to the Attorney General *a copy of the written request* and a copy of the written response denying inspection." KRS 61.880(2)(a) (emphasis added). With regard to the May 6 request, the Office does not have jurisdiction because the Appellant did not perfect her appeal. *See* 40 KAR 1:030 § 1 ("The Attorney General shall not consider a complaint that fails to conform to . . . KRS 61.880(2), requiring the submission of a written request to the public agency and the public agency's written denial, if the agency provided a denial.").

Finally, on May 8, 2025, the Appellant submitted the request at issue here, in which she sought various records related to the Board's enforcement of Kentucky's cosmetology laws. This request did not contain a statement regarding the Appellant's residency; however, the Appellant included her postal address, which showed she resided in Tennessee. In a timely response issued to the Appellant and her attorney, the Board denied the May 6 and May 8 requests because, "[b]ased on the information provided in the latest requests, at this time it does not seem like [the Appellant] is a current resident of Kentucky." This appeal followed.

Under KRS 61.872(2)(a), only a "resident of the Commonwealth shall have the right to inspect public records." When a person requests inspection of records, "[t]he official custodian may require the applicant to provide a statement in the written application of the manner in which the applicant is a resident of the Commonwealth under KRS 61.870(10)(a) to (f)." KRS 61.872(2)(a). "Resident of the Commonwealth" is defined as:

- (a) An individual residing in the Commonwealth;
- (b) A domestic business entity with a location in the Commonwealth;
- (c) A foreign business entity registered with the Secretary of State;
- (d) An individual that is employed and works at a location or locations within the Commonwealth;
- (e) An individual or business entity that owns real property within the Commonwealth;
- (f) Any individual or business entity that has been authorized to act on behalf of an individual or business entity defined in paragraphs (a) to (e) of this subsection; or
- (g) A news-gathering organization as defined in KRS 189.635(9)(b)1. a. to e.

KRS 61.870(10). Here, the Appellant's request did not include a statement of the manner in which she is a resident of the Commonwealth. Although the Appellant attempted to provide a statement of residency in her previous requests, a public agency may require a residency statement in *each* request. *See, e.g.,* 25-ORD-116.

On appeal, the Appellant admits her “primary residence is in Cumberland Gap, Tennessee.” But she claims she should be considered a resident of the Commonwealth under KRS 61.870(10)(d) “because, at all times relevant to the civil claim” in a pending action she has against the Board, she “was employed and worked at locations within the Commonwealth of Kentucky.” She further asserts the Board has “documentation of where [she] worked.” The Appellant does not claim, however, that she *still* was employed at a location within the Commonwealth on the date of her request. Because the Appellant did not provide a statement of the manner in which she was a resident of the Commonwealth under KRS 61.870(10), and because she apparently is no longer a resident of the Commonwealth, the Board did not violate the Act when it denied the Appellant’s request.

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
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Distributed to:

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