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-ORD-156

June 13, 2025

In re: Daniel Woodie/Kenton County Dispatch

Summary: Kenton County Dispatch ("the Agency") did not violate the Open Records Act ("the Act") when it provided redacted records because the requester is not a resident of the Commonwealth.

Open Records Decision

On March 27, 2025, Daniel Woodie ("Appellant") submitted to the Agency[1] a multipart request.[2] That request stated that the Appellant is a resident of the Commonwealth as defined by KRS 61.870(10)(d) ("An individual that is employed and works at a location or locations within the Commonwealth.") In response, the Agency denied the request, stating the Appellant is not a resident of the Commonwealth under KRS 61.870(10). The response directed the Appellant's attention to his sworn testimony in which he stated he "work[s] from home" at a location outside Kentucky. In response, the Appellant stated his belief that the Agency's response violated the Act. He then explained that, although he does "primarily work from home," he has one work location in Kentucky where he "report[s] on official business as needed"[3] and that he "drive[s] for Uber part-time and more than half of [his] rides are within"

[1] The Kenton County Emergency Communications Center (KCECC), also known as Kenton County Dispatch, is a multi-agency dispatch center serving all cities and unincorporated areas within Kenton County.

[2] Specifically, the Appellant sought all (1) "Open Records Requests" related to four individuals submitted by any of five specified individuals as well as the records responsive to those requests; (2) "call audio, radio audio, CAD reports, CAD messages, emails, warrant returns, [and] vehicle inquiries" from November 2024 to the date of the request for calls involving any of five individuals, two addresses, or four vehicles; (3) communications with two employees of the Park Hills Police Department regarding the subjects of the first two parts of his request dated from November 2024 to the date of the request; and (4) "Any records or communications regarding possible improper disclosure of NCIC/LINK records related to Daniel Woodie from November 2024" to the date of the request.

[3] The Appellant states that he works for IT Tech Direct, a company located in Maryland, and, in that role, sometimes does work for U.S. Customs and Border Protection as a contractor.

Kentucky.[4] In response, the Agency maintained its position that the Appellant is not a resident of the Commonwealth because his employer is not located within Kentucky. The Appellant again communicated his belief that the Agency was incorrect. At this point, the Agency opted to partially grant the Appellant's request and provided redacted records on April 8, 2025.[5] On April 13, 2025, the Appellant initiated his first appeal.

On April 17, 2025, the Appellant submitted a new request for the same records sought in the second part of his March 27 request.[6] In response, the Agency explained that his request is duplicative of his March 27 request, which was currently pending on appeal before this Office, that it had already provided the redacted records that would be responsive to his April 17 request, and that it was incorporating by reference its previous responses. On April 22, 2025, the Appellant initiated his second appeal.[7]

First, the Office must address whether the Appellant is a resident of the Commonwealth as defined by KRS 61.870(10). This is because "[a]ll public records shall be open for inspection by any *resident of the Commonwealth*" and "[a]ny *resident of the Commonwealth* shall have the right to inspect public records." KRS 61.872 (emphasis added). Because only a "resident of the Commonwealth" has the "right to inspect public records," KRS 61.872(2)(a), a nonresident has no statutory right of inspection. Accordingly, a public agency cannot violate the Act by denying a nonresident's request—regardless of the reason it gives when denying the request. *See, e.g.*, 25-ORD-119 n.5. Thus, even if a public agency chooses to provide responsive records despite the requester's status as a nonresident, the agency cannot violate the Act with its production of records or its redaction of those records. *See, e.g.*, 25-ORD-108 (finding the public agency could not have violated the Act when it provided responsive records to a requester who stated she is not a resident of the Commonwealth).

---

4 The Appellant provides receipts from his Uber rides as proof.

5 The Appellant has also provided copies of three requests he submitted on March 30, 2025. However, the Appellant did not provide the Agency's responses to those requests. Thus, those requests are not properly before the Office in this appeal. *See* KRS 61.880(2)(a).

6 Specifically, the Appellant sought "radio recordings including police and fire dispatch and queries, call recordings, CAD reports, queries, notes, and any other records relating to the assault of one individual identified in his original request by another individual identified in his original request.

7 Because both appeals arose out of requests for the same group of records, and because the Agency has incorporated its response to the first request into its response to the second request, the Office has consolidated these two appeals. *See, e.g.*, 22-ORD-167.

The Appellant cites 22-ORD-120 and 25-ORD-033, asserting that the Agency must accept his statement of residency. The Office takes this opportunity to clarify its previous decisions and their application when a public agency does not believe a requester's statement that he is a resident of the Commonwealth to be accurate.

In 22-ORD-120, the requester submitted his request, stating only that he was "a man in Kentucky." In response, the agency stated that his residency statement was insufficient and asked him to clarify how he was a resident of the Commonwealth by providing an address. *Id.* The requester provided a P.O. Box address, but the agency later asked the appellant to "provide proof of residency." Under the Act, an official records custodian may require a person requesting to inspect records "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). However, because that provision does not allow for a demand of proof,[8] the Office held that the agency's request for clarification did not violate the Act, but its demand for proof did.[9]

Here, the Agency did not demand proof of the Appellant's residency status. Rather, it disagreed with the Appellant's assessment of himself and denied his request. In issuing its denial, the Agency provided proof, citing official court records in which the Appellant testified that he "work[s] from home" at a location not in Kentucky for an employer not located in Kentucky. The Office has previously found an agency's denial does not violate the Act when the record on appeal demonstrates that the requester was not a resident of the Commonwealth at the time of the request. *See, e.g.*, 25-ORD-141 (finding the requester was not a resident of the Commonwealth); 25-ORD-119; 25-ORD-018; 24-ORD-238. Simply put, a public agency is not required to simply accept a statement of residency that it knows to be false.

---

[8] Under KRS 61.870(10)(f), a request may qualify as a resident if he or she is an individual who "*has been authorized* to act on behalf of an individual or business entity defined in" KRS 61.870(10)(a) to (e). KRS 61.870(10)(f) (emphasis added). The Office has concluded that an agency may request a copy of such authorization because "if a requester could merely claim to be acting on a resident's behalf, without identifying the resident or providing proof of his or her authorization, then KRS 61.870(10)(f) would completely eviscerate the Act's residency requirement." 24-ORD-034.

[9] 25-ORD-033 is a decision involving the Appellant and a different public agency. There, citing 22-ORD-120, the Office determined the agency had violated the Act because its basis for denial was that the Appellant had "not provided proof that his place of employment is in Kentucky." The Office did not make a finding regarding whether the Appellant is or is not a resident of the Commonwealth.

An agency cannot deny a request on the basis of residency by simply asserting the requester is not a resident of the Commonwealth or that the requester has not proven his or her resident status. *See* 22-ORD-120. Rather, the burden is on the agency to make a *prima facie* case that the requester is not a resident of the Commonwealth.[10] To make a *prima facie* case that the request is not a resident of the Commonwealth in the manner he or she asserts, an agency must provide some legal[11] or factual support for that contention. A bare assertion of belief, unadorned by any legal or factual support, will fail to make a *prima facie* case that the requester is not a resident of the Commonwealth.

Here, the Appellant stated in his request that he is a resident of the Commonwealth under KRS 61.8710(10)(d). That section includes as a resident of the Commonwealth "[a]n individual that is employed and works at a location or locations within the Commonwealth." The Agency denied the Appellant's request on the basis of residency because the Appellant had testified under oath that he "work[s] from home" at a location outside Kentucky. Thus, the Agency established a *prima facie* case that the Appellant does not work at a location within the Commonwealth and denied the request.

To rebut[12] the Agency's conclusion, the Appellant makes two assertions. First, he argues that he qualifies as a resident of the Commonwealth under KRS 61.870(10)(d) because, although he "primarily work[s] from home," he has "at least one work location within" Kentucky where he "report[s] on official business as needed," and the Act does not require a requester's primary work location to be in Kentucky. Second, the Appellant states that he drives part-time for Uber and that more than half of his rides take place within Kentucky.

Before addressing the Appellant's arguments, the Office notes that "[a] requester must fit the definition of 'resident of the Commonwealth' at the time his

---

[10] This analysis mirrors how the Office and the courts analyze requests for records under the Act when the public agency states it does not possess any records responsive to a request. *See Bowling v. Lexington–Fayette Urb. Cnty. Gov't*, 172 S.W.3d 333, 341 (Ky. 2005).

[11] The Office has previous found that a public agency's denial of a request based on residency does not violate the Act when the public agency explained that the requester did not fit the definition of resident of the Commonwealth. *See, e.g.*, 25-ORD-141; 25-ORD-119; 25-ORD-018; 24-ORD-238. Those denials were not based on factual proof contradicting the requester's statement of residency. Rather, those denials explained why the requester did not meet the relevant definition of resident of the Commonwealth.

[12] The Office notes that, because the Act requires an Appellant to provide only a statement of residency and does not require proof of residency, *see* KRS 61.872(2)(a); *see also* 22-ORD-120, a requester's burden to rebut an agency's *prima facie* case is minimal.

request is made, not at some anticipated or hypothetical time in the future." 25-ORD-018 (finding the requester was not a resident of the Commonwealth based on his intent to publish an article in the future). Thus, when determining whether a requester is a resident of the Commonwealth, the Office considers only the status of the requester at the time he or she submitted the request. *See, e.g.*, 25-ORD-136 (finding the requester was not a resident of the Commonwealth based on her assertion that she had previously lived in Kentucky); 24-ORD-135 (same).

It is undisputed that the Appellant's primary work station is not in Kentucky. And the Appellant is correct that the Act does not require a requester's primary work location to be in the Commonwealth. In fact, the Act contemplates that a requester may work at multiple "locations within the Commonwealth." KRS 61.870(10)(d). However, the Appellant does not claim to *regularly* work at a location within the Commonwealth. Rather, he explains that he (1) sometimes does work for his main employer at a location within Kentucky on an "as needed" basis and (2) mostly drives in Kentucky when he drives for Uber.[13] Such statements, standing alone, state only that the Appellant believes he will do work in Kentucky "at some anticipated or hypothetical time in the future." Importantly, doing work on an "as needed" basis leaves open the possibility that the work might not ever again be "needed." This type of statement states only a belief that his work will occur at a location in Kentucky "at some anticipated or hypothetical time in the future" and fails to demonstrate how the requester fits the definition of resident of the Commonwealth at the time his request is made. Accordingly, the Agency's response providing redacted records to the Appellant did not violate the Act.

A party aggrieved by this decision may appeal it by initiating an action in the appropriate circuit court under KRS 61.880(5) and KRS 61.882 within 30 days from the date of this decision. Under 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.

[13] The Office also notes that driving routes do not, by themselves, constitute a specific work location as contemplated by the Act.

Russell Coleman
Attorney General

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

#148 & 170

Distributed to:

Daniel Woodie
Christopher S. Nordloh
Kenton County Dispatch Open Records