



## COMMONWEALTH OF KENTUCKY OFFICE OF THE ATTORNEY GENERAL

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25-ORD-159

June 18, 2025

In re: Scott Webster/Kentucky Department of Revenue

**Summary:** The Office cannot find that the Kentucky Department of Revenue (“the Department”) violated the Open Records Act (“the Act”) because the Office is unable to resolve the factual dispute between the parties as to whether the requester received a response to his request.

### *Open Records Decision*

On January 22, 2025, Scott Webster (“Appellant”) submitted a request to the Department for tax records related to Appalachian Royalty Trust, LLC.<sup>1</sup> On February 26, 2025, the Appellant inquired by email as to why he had yet to receive a “substantive response” from the Department.<sup>2</sup> On March 12, 2025, the Department responded, stating its “legal department has tried to reach [him], however, they have not received any call back.” On March 17, 2025, the Appellant responded that he has had “no calls or messages at [his] office.” On May 20, 2025, the Appellant initiated this appeal, claiming he had “received no documents in response to this request.”

Under KRS 61.880(1), upon receiving a request for records under the Act, a public agency “shall determine within five (5) [business] days . . . after the receipt of any such request whether to comply with the request and shall notify in writing the person making the request, within the five (5) day period, of its decision.” When a public agency denies a request to inspect public records, it must provide “a brief explanation of how the exception applies to the record withheld.” KRS 61.880(1).

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<sup>1</sup> The Appellant submitted his request as a representative of Appalachian Royalty Trust, LLC.

<sup>2</sup> The Appellant provided emails dated prior to March 12, referencing a “secured email” the Department sent him that neither he, nor his “IT Specialist” could open. However, he did not provide the “secured email.”

Here, the Appellant submitted a request to the Department on January 22, 2025, and claims that he “received no documents in response to this request.” On appeal, the Department claims it responded to the Appellant’s January 22 request the very next day. As proof, the Department provides its email response, dated January 23, 2025.<sup>3</sup> The Office has previously found that it is unable to resolve factual disputes between a requester and a public agency, such as whether a requester received an agency’s response to his request. *See, e.g.*, 23-ORD-220; 21-ORD-233. Similarly, here, the Office cannot resolve the factual dispute between the parties or find that the Department violated 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](mailto:OAGAppeals@ky.gov).

**Russell Coleman**  
**Attorney General**

/s/ Matthew Ray  
Matthew Ray  
Assistant Attorney General

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Distributed to:

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<sup>3</sup> The Department explained that it could deny the Appellant’s request, citing KRS 131.081 and KRS 131.190, which are incorporated into the Act by KRS 61.878(1)(l), and explained that those statutes exempt tax information from disclosure unless certain exceptions apply. However, the Department also explained that it believed a certain exemption did apply—specifically, that he is an “attorney representing the entity to which the documents requested directly relate” under KRS 131.190(2)(c). Thus, the Department asked that the Appellant complete its “Declaration of Representative” form to confirm his representation so that it could provide the records to him. However, because the Appellant claimed he did not receive that response, any question of the sufficiency of that response under the Act is not ripe for review.