



COMMONWEALTH OF KENTUCKY OFFICE OF THE ATTORNEY GENERAL

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25-ORD-192

July 23, 2025

In re: Howard Froelicher/City of Falmouth

Summary: The City of Falmouth (“the City”) violated the Open Records Act (“the Act”), when it failed to respond to a request for records within five business days.

Open Records Decision

On June 13, 2025, Howard Froelicher (“Appellant”) submitted a request to the City for records related to its “Surplus Vehicle Sales” from 2014 to the present. On June 25, 2025, claiming he had received “no substantial response” to his request, the Appellant initiated this appeal.¹

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.” Here, the Appellant submitted his request to the City on June 13, 2025, but had not received a response as of June 25. On appeal, the City does not assert that it timely responded to the request.² Accordingly, the City violated the Act when it failed to respond to a request for records within five business days.

¹ On appeal, the Appellant raises numerous allegations against the City that are unrelated to the Act. The Office is unable to adjudicate these other allegations in the context of an open records appeal under KRS 61.880(2)(a) because the Office only has jurisdiction to determine whether the agency has complied with the Act. *See, e.g.*, 23-ORD-218.

² After this appeal was initiated, the City denied the Appellant’s request on the basis that it is “overly broad, burdensome, and intended to disrupt, per KRS 61.872(6).” The Appellant has challenged the City’s denial of his request. However, the only issue raised in the Appellant’s original appeal was the City’s failure to respond to his request. The Office declines to consider the new issues raised for the first time on appeal. *See, e.g.*, 22-ORD-200 n.2; 22-ORD-170 n.2; 22-ORD-142 n.3; 21-ORD-177 (holding the Office may decline to consider new issues raised by the parties’ subsequent

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.

Russell Coleman
Attorney General

/s/ Matthew Ray
Matthew Ray
Assistant Attorney General

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Distributed to:

Howard Froelicher
Ramona Williams
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correspondence on appeal because the Office discharges its duty under KRS 61.880(2)(a) when it reviews the request, the agency's response thereto, and decides whether the agency violated the Act).