



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-222

August 20, 2025

In re: Matthew Johnson/City of London

Summary: The City of London (“the City”) did not violate the Open Records Act (“the Act”), when it did not provide copies of records to a county resident prior to his inspection of the records under KRS 61.872(2)(a) and KRS 61.874(1).

Open Records Decision

On June 3, 2025, Matthew Johnson (“Appellant”) submitted a request for three categories of law enforcement records related to a specific incident. The Appellant specified in his request that he is “willing to receive copies electronically or by mail” and would cover the applicable costs of doing so. The City timely responded to the Appellant’s request and asked him to “make arrangements with [its records custodian] to set up a time to review the documents requested.”¹ On July 22, 2025, the Appellant initiated this appeal, taking issue with the City’s requirement for him to first conduct an in-person review.

Under KRS 61.872(2)(a), “[a]ny resident of the Commonwealth shall have the right to inspect public records.” Inspection of public records on the agency’s premises is the basic right provided by the Act. “Upon inspection, the applicant shall have the right . . . to obtain copies of all public records not exempted by the terms of KRS 61.878.” KRS 61.874(1) (emphasis added). Thus, under KRS 61.874(1), a requester’s right to obtain copies of records is conditioned on his first inspecting those records. *See, e.g.*, OAG 76-375 (finding that “[t]he right to have copies of records is ancillary to the right of inspection and does not stand by itself,” and therefore, “[i]f a

¹ On June 3, 2025, the City confirmed receipt of the request and, on June 10, 2025, notified the Appellant that it “will require additional time to search [its] staff records for the information [he] requested” and that it would provide the records to him “by the close of business on Friday, June 13, 2025.” The Appellant did not challenge this portion of the City’s response.

person has not inspected the records he desires to copy[,] there is no requirement that copies of any records must be delivered to him"); OAG 82-629 (finding that the Act "does not contemplate that a public agency shall send requested records to a person who has not inspected them").

In 1992, the General Assembly enacted KRS 61.872(3), which provides that public records may be inspected either "[d]uring the regular office hours of the public agency" or "[b]y receiving copies of the public records from the public agency through the mail." The second alternative, however, is not available to all requesters. Rather, "[t]he public agency shall mail copies of the public records *to a person whose residence or principal place of business is outside the county in which the public records are located* after he or she precisely describes the public records which are readily available within the public agency." KRS 61.872(3)(b) (emphasis added). As a result, a requester who lives in the county where the records are located is not entitled to receive copies of the requested records by mail without first inspecting the records in person. *See Commonwealth v. Chestnut*, 250 S.W.3d 655, 661 (Ky. 2008) (finding that "KRS 61.872(3)(b) seemingly applies when someone residing outside the county in which the public records are located desires to receive copies of the public records through the mail," not a person "in the same county as the records kept by the custodian"); *see also* 97-ORD-46 (finding that "[a] requester who both lives and works in the same county where the public records are located may be required to inspect the records prior to receiving copies"); 92-ORD-1620 (finding that KRS 61.872(3)(b) "reflects a concern that persons residing outside the county where the records are maintained should not be compelled to travel great distances in order to inspect those records").

The City asserts that it was permitted to require in-person inspection because the Appellant resides and has his principal place of business in Laurel County, where the record is located. In response, the Appellant asserts that he works outside of Laurel County. A "public agency shall mail copies of the public records to a person whose residence *or* principal place of business is outside the county in which the public records are located. . ." KRS 61.872(3)(b) (emphasis added). If the Appellant's principal place of business is outside Laurel County, the City must mail copies of the requested public records to him.

However, the Appellant's original request did not state that he worked outside Laurel County. Instead, he provided an address in Laurel County. The Appellant only identified his principal place of business after this appeal was initiated. Absent knowledge of the Appellant's principal place of business, the City reasonably

concluded that the Appellant was a resident of Laurel County. Therefore, his right to obtain copies of the records requested is secondary to his right under KRS 61.874(1), *i.e.*, the right to obtain a copy “[u]pon inspection.” Accordingly, the City did not violate the Act when it made the requested record available for the Appellant’s inspection during its regular business hours, as opposed to sending him copies of the records.

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

#346

Distributed to:

Mathew Johnson
Ashley Taylor
Larry G. Bryson
Randall Weddle