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25-ORD-281

September 26, 2025

In re: Lori Davenport/City of Ludlow

Summary: The Office cannot find that the City of Ludlow (“the City”) violated the Open Records Act (“the Act”), because the Office cannot resolve the factual dispute between the parties regarding the first request. The City violated the Act when it failed to timely respond to the Appellant’s second request.

Open Records Decision

On July 27, 2025, the Appellant submitted a request to the City seeking a particular form that has been “filed” by the City’s mayor on June 6, 2024. Then, on August 18, 2025, the Appellant submitted a request seeking “the packet given to council members” at the August 14, 2025, City council meeting. Claiming to have received no response to either request by August 29, 2025, the Appellant initiated this appeal.

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.”

Regarding the July 27, request, the Appellant submitted her request to the City on June 25, 2025, and claims she had yet to receive a response to his request as of August 29, 2025. On appeal, the City asserts it did timely respond to the Appellant’s request. As proof, the City provided a copy of a letter, dated July 30, 2025, that it claims to have sent to the Appellant in response to her request.

The Office has routinely found that it is unable to resolve factual disputes between a requester and a public agency, such as whether a requester received a response to her request. *See, e.g.*, 23-ORD-276. Similarly, here, the Office is unable to resolve the factual dispute between the Appellant and the City or find that the City violated the Act by failing to respond to the July 27 request.

Regarding the August 18, request, the City explains that it inadvertently overlooked the Appellant's request because of the manner in which the Appellant submitted the request. The City states that on August 18, the Appellant submitted her request by email. The body of the Appellant's email contained her request. Included as an attachment to the same email was an undated request, on the City's record request form. The City also explains that the attached request was identical to a request the Appellant had submitted in May 2025. The City issued a response to the Appellant's request contained in the attachment but overlooked the request contained in the body of the email.

The City now asserts that the Appellant's "mixed request" did not "meet the requirements for a proper request under" the Act. However, the City does not explain which provision of the Act the request did not meet. The Act provides that requests may be sent by email. *See KRS 61.872(2)(b)4.* The Appellant's request for the packet was sent by email. Moreover, the Appellant's email request was signed and included a statement of residency, *see KRS 61.872(2)(a)*, and included a statement that the request was not for a commercial purpose, *see KRS 61.876(4)(c)*. The Appellant's simultaneous submission of two different requests in the body of an email and as an attachment to same email, arguably, was not a model of clarity. However, that method of submission is not barred by the Act. Rather, it appears that the Appellant submitted two different requests for records at the same time and the Act required the City to respond to both requests within five business days. Here, the City acknowledges that it did not respond to the Appellant's request within five business days of receiving it.¹ Accordingly, the City violated the Act under KRS 61.880(1).²

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.

¹ The City states that it has since provided the Appellant with the record responsive to her request.

² The Appellant's email initiating this appeal directed the Office to her request for the packet given to the City Council and alleged she had received no response. Because she did not direct the Office to the request contained in the attachment, to which she did receive a response, or allege the City's denial violated the Act, the merits of the request contained in the attachment and the City's denial are not at issue in this appeal.

**Russell Coleman
Attorney General**

/s/ Zachary M. Zimmerer
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Distributed to:

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