



COMMONWEALTH OF KENTUCKY OFFICE OF THE ATTORNEY GENERAL

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25-ORD-345

November 3, 2025

In re: Sara Powell/Kentucky Transportation Cabinet

Summary: The Kentucky Transportation Cabinet (“the Cabinet”) violated the Open Records Act (“the Act”) when it failed to timely respond to a request under the Act.

Open Records Decision

On July 29, 2025, Sara Powell (“Appellant”) submitted a six-part request to the Cabinet seeking “records related to recent road crew activity and property maintenance” at a specific address. This request was directed to a Cabinet employee who responded by providing the identity and contact information of the Cabinet’s records custodian. On August 12, 2025, the Appellant resubmitted her request to the Cabinet’s records custodian. On October 3, 2025, having received no response from the Cabinet, 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.” On appeal, the Cabinet states that it received the Appellant’s request on August 14, 2025, making August 21, 2025, its deadline to respond. However, according to the Cabinet, it did not issue its response, which granted the request, until August 28, 2025. Thus, the Cabinet’s response was untimely, and thus, the Cabinet violated the Act when it failed to timely respond to the Appellant’s request.¹

¹ The Cabinet asks the Office to dismiss this appeal as moot because it eventually provided all responsive records. However, because the Cabinet did not timely respond to the request, the Office cannot dismiss the appeal as moot as to the issue of timeliness. See, e.g., 24-ORD-163 n.1 (finding an appeal of the agency’s failure to respond was not moot when the agency subsequently produced the records); 23-ORD-274 n.1 (finding an appeal was not rendered moot by the agency’s 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/ Zachary M. Zimmerer
Zachary M. Zimmerer
Assistant Attorney General

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Distributed to:

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production of responsive records); 23-ORD-007 (finding the agency violated the Act when it failed to respond to the Appellant's request within five business days).