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OFFICE OF THE ATTORNEY GENERAL

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25-ORD-408

December 18, 2025

In re: Mohamed Aly/Kentucky Real Estate Authority

Summary: The Kentucky Real Estate Authority (“the Authority”) did not violate the Open Records Act (“the Act”) when it invoked KRS 61.872(5) to delay its final response to a request for a large number of records.

Open Records Decision

On November 7, 2025, Mohammed Aly (“the Appellant”) submitted a request to the Authority seeking all records associated with a particular case in front of the Kentucky Real Estate Commission (“the Commission”). The Appellant further specified that responsive records included (1) all submissions, investigative materials, and agency actions; (2) all emails and correspondence for particular brokers and brokerages, real estate salespersons, real estate entities or business entities, counsel for the respondents, and interested tenants and fact witnesses; and (3) records related to the Commission’s receipt, processing, and review of Mr. Aly’s third notarized submission. In response, the Authority cited KRS 61.872(5) and stated that it would make responsive records available on December 1, 2025. To explain its delay, the Authority stated that it identified 667 unique emails and other records constituting over 1,500 pages that were responsive to the Appellant’s request. This appeal followed.

Under KRS 61.880(1), a public agency has five business days to grant or deny a request for public records. Here, the City provided a timely initial response to the request, but neither granted nor denied the request at that time. The time period under KRS 61.880(1) may be extended if the records are “in active use, in storage or not otherwise available,” but the agency must give “a detailed explanation of the cause . . . for further delay and the place, time, and earliest date on which the public record[s] will be available for inspection.” In light of this provision, the Attorney General has recognized that persons requesting large volumes of records should “expect reasonable delays in records production.” 12-ORD-228. Under

KRS 61.880(2)(c), the public agency has the burden of proof to “substantiate the delay and that it is acting in good faith.” 21-ORD-045.

Here, the Authority explains that it originally identified 1,500 pages of responsive records and determined it needed an additional 8 business days to review, redact, and produce responsive records but that it has since determined that the Appellant’s request actually implicated 3,000 pages of records. Despite this, the Authority explained that all records would still be produced by December 1, 2025. In 25-ORD-235, the Office found a delay of six weeks was reasonable to review and produce 5,800 records. Here, the Authority’s delay amounted to eight business days to review over 3,000 pages of records. Given the number of records implicated by the request and the Authority’s short delay, it is apparent that this delay was not unreasonable. Moreover, the Authority has demonstrated its good faith in producing the records by not further delaying its final production when it determined that the request implicated twice as many pages of records as it originally estimated. Therefore, the Authority has met its burden of proof to justify its delay in producing records.¹

A party aggrieved by this decision may appeal it by initiating an action in the appropriate circuit court pursuant to KRS 61.880(5) and KRS 61.882 within 30 days from the date of this decision. Pursuant to 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

¹ The Appellant argues that the Authority has enlarged the number of responsive records by failing to limit its search to the parameters of his request. For its part, the Authority maintains that it only produced records responsive to his request. This is a factual dispute the Office cannot resolve. *See, e.g.*, 22-ORD-010 (declining to resolve a factual dispute that the records received were different from the records requested).

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Distributed to:

Mohamed Aly

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