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**26-OMD-264**

June 9, 2026

In re: Ryan Haller/Lexington Board of Adjustments

***Summary:*** The Lexington Board of Adjustments ("the Board") did not violate the Open Meetings Act ("the Act") by holding its meeting at a location that was inconvenient to the public.

***Open Meetings Decision***

On April 14, 2026, in a written complaint submitted under KRS 61.846(1), Ryan Haller ("the Appellant") alleged that the Board had violated the Act because it held its April 13, 2026, meeting in a room with insufficient capacity to hold all individuals who sought to attend the meeting and the overflow seating provided by the Board did not allow for effective observation of the meeting. Thus, the Appellant asserts that the Board violated KRS 61.840, which imposes requirements on agencies related to meeting room conditions. As a remedy, the Appellant proposed that the Council acknowledge the violation, nullify any action taken, reconduct the meeting at a larger venue, and establish written procedures to prevent similar violations in the future.

In response, the Council denied it had violated KRS 61.840, stating that the meeting venue allowed effective observation of its meeting and that it made a good-faith effort to provide additional overflow seating. This appeal followed.

Under the Act, when a public agency conducts a meeting, it is required to "provide meeting room conditions, including adequate space, seating, and acoustics, which insofar as is feasible allow effective public observation of the public meeting." KRS 61.840. The Supreme Court of Kentucky has held that the Act "does not impose upon government agencies the requirement to conduct business only in the *most* convenient locations at the *most* convenient times." *Knox Cnty. v. Hammons*, 129 S.W.3d 839, 845 (Ky. 2004) (emphasis in original). In *Hammons*, the Court considered whether a meeting of a public agency violated KRS 61.840 "because it did not allow 'effective public observation' of the proceedings." *Id.* at 844. Describing the meeting in question, the Court stated, "It is undisputed that numerous citizens were not able

to enter the crowded district courtroom and observed the proceedings from the hallways." *Id.* However, the Court ultimately held that the agency had not violated KRS 61.840 because "there is nothing on the record to indicate that persons wishing to attend or participate in the proceeding were effectively prevented from doing so." *Id.* at 845. In so holding, the Court stated that the Act is "designed to prevent government bodies from conducting its business at such inconvenient times or locations as to effectively render public knowledge or participation impossible, not to require such agencies to seek out the most convenient time or location." *Id.*

The Appellant alleges that the Board failed to comply with KRS 61.840 because (1) it was aware that its April 13 meeting would heavily attended because it "received nearly 600 letters from neighboring residents," but the location chosen had insufficient capacity; (2) the televisions provided in the overflow spaces did not have working sound for portions of the meeting; and (3) the Lexington mayor held a press conference in a different part of the building, which made it difficult for overflow attendees to hear the meeting proceedings.

For its part, regarding the meeting venue, the Board explains that it held it meeting at "the largest meeting space" available to the Lexington–Fayette Urban County Government. It further explains that it made a good faith effort to accommodate as many attendees as possible by providing overflow spaces with an extra 105 seats. Finally, the Board explains that it also publishes a livestream of its meeting which can be viewed online.

Regarding the Appellant's allegation that the audio for the overflow televisions was not working, the Board states that, after the meeting began at 1:30 p.m., a staff member was notified that of the malfunction, and that most televisions were functioning at 2:38 p.m. It also points out that its internet livestream was always available.

Regarding the mayor's press conference, the Board asserts that it cannot dictate to the mayor when or where she may speak to the public. It also argues that the mayor's remarks lasted six minutes and, therefore, disputes that those remarks "effectively prevented" anyone from observing the Board's meeting.

To start, regarding the allegations related to the large number of attendees at the April 13 meeting, the Office's decisions in 25-OMD-261 and 25-OMD-305 are instructive. Those decisions concerned meetings of an agency that were attended by a large number of individuals who took up all available seating. In those previous decisions, the Office reasoned that those meetings were analogous to the meeting at issue in *Hammons*, insofar as citizens at both meetings "were not able to enter the crowded [room] and observed the proceedings from the hallway." *Id.* at 844. Ultimately, in *Hammons*, the Court reasoned that, although the meeting room in

question "might not have been the most convenient . . . location to hold the meeting, it certainly was not an inconvenient . . . location. The fact that a large number of citizens did attend proves this point." *Id.* at 845. Based on *Hammons*, the Office held that, although the agency's meeting room may not have been the most convenient location, the fact that a large number of citizens were still able to attend the meeting demonstrates that it was not an inconvenient location.

Here, the Board held its meeting in the largest room available to it, attempted to provide another 100 overflow seats to potential attendees, and made its meeting available to be viewed online. The Act does not require that a public agency cancel any meeting where it cannot provide seating for every individual seeking to attend, and the Office "has recognized that a public agency does not violate [KRS 61.840] 'merely because everyone at a particular meeting could not be admitted into the meeting room.'" 98-OMD-044. Rather, the Office has found that a public agency satisfies the requirements of KRS 61.840 when it arranges for an overflow crowd to view its meeting from another room. *See, e.g.*, 98-OMD-44; 94-OMD-87.

The Appellant asserts that the overflow room was insufficient because, for a period of at least one hour, the televisions provided by the Board did not work. The Board asserts that it worked to remedy the problem, and viewing was eventually made available again. The Board does acknowledge that one television in its smallest overflow space could not be fixed during the meeting. The record in this appeal indicates that the Board had a plan to provide overflow viewing of its April 13 meeting and did in fact provide such accommodation. Only after the meeting began, the Board learned of the technology failure related to the overflow spaces. The Board denies that this unforeseen failure of technology amounts to a violation of KRS 61.840 and emphasizes that livestreaming on handheld devices was always available to the public. The Act "does not impose upon government agencies the requirement to conduct business only in the *most* convenient locations at the *most* convenient times." *See Hammons*, 129 S.W.3d at 845 (emphasis in original). The Office declines to find that an *unforeseen* failure of overflow room technology amounts to a failure to comply with KRS 61.840, especially when a large number of people were able to watch the meeting in the main meeting room. Simply put, the Board made arrangements for overflow viewing and provided a livestream as a third way of watching the meeting. Although the overflow viewing was not always available, the livestream was always available, and the record is devoid of facts suggesting the Board was aware of the technology issues *prior* its meeting.

The Appellant also argues that the mayor's speaking event made it difficult for overflow seating attendees to hear the proceedings. In 97-OMD-28, the Office found that a public agency violated the KRS 61.840 by failing to address noise problems in the meeting room that had been brought to its attention. Here, the record does not indicate that the Board was made aware of the alleged noise problem caused by the

mayor's six-minute speech. Moreover, although the Board would undoubtedly have the authority and ability to address a noise issue occurring in its meeting room, the Office doubts the Board could have forbidden the mayor from holding a speaking engagement at the Lexington Government Center. This is especially true here, where the meeting lasted roughly six hours.

At bottom, the record before the Office does not indicate that the Board's meeting location was so inconvenient "as to effectively render public knowledge or participation impossible." *See Hammons*, 129 S.W.3d at 845. The Board held its meeting in its largest available meeting space, provided overflow viewing for another 105 individuals, and provided television and livestream viewing options. The partial technology failure does not, standing alone, amount to a violation of KRS 61.840. Accordingly, the Office cannot find that the Board violated KRS 61.840.

A party aggrieved by this decision may appeal it by initiating an action in the appropriate circuit court pursuant to KRS 61.846(4)(a). 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**
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/s/ Zachary M. Zimmerer
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Distributed to:

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