



COMMONWEALTH OF KENTUCKY  
OFFICE OF THE ATTORNEY GENERAL

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26-ORD-022

January 21, 2026

In re: Noel M. Botts/City of Burgin

**Summary:** The Office cannot find that the City of Burgin (“the City”) violated the Open Records Act (“the Act”) because the City complied with the request.

*Open Records Decision*

Noel M. Botts (“Appellant”) submitted a request for records to the City containing two parts.<sup>1</sup> The City granted the Appellant’s request and provided responsive records.<sup>2</sup> The City noted that, although it provided the requested reports, those “reports were not existing records,” and because the Act “does not require a public agency to create records,” it would not be creating these reports for the Appellant in the future. The City also directed the Appellant to “access all of the detailed billing information for its tenants through the portal on the City’s website.” The Appellant initiated this appeal, seeking an advisory opinion from the Office determining whether the City’s proposed future actions are “permitted” under the Act.<sup>3</sup>

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<sup>1</sup> First, he requested “copies of any detailed statements showing how any alleged delinquent water bills for any properties located in the City [sic] owned by August Properties, LLC.” Second, he requested “copies of any accounting ledgers showing how any alleged water bills for any properties located in the City [sic] owned by August Properties, LLC.”

<sup>2</sup> The records the City provided were “delinquent water bills and detailed transaction history reports.”

<sup>3</sup> The Office notes that this is a rare instance in which the agency both stated reasons for denying the Appellant’s request, but then also provided the requested records. Essentially, the Appellant’s stated basis for this appeal is the City’s notifying the Appellant of how it will handle future requests for the same or similar records. The Appellant asked the Office to clarify whether the City’s proposed handling of future records requests for the same or similar records is permitted under the Act.

The City asserts it created records to provide to the Appellant because they did not exist beforehand. The City then notified the Appellant that, in the future, it would not be extending him the same courtesy and would deny future requests because the Act does not require it to create records to fulfill a request. On appeal, the Appellant asserts he did not ask the City to create records, but rather, requested the “information that it should already have in its water billing system.” The Act does not require a public agency to create a record to satisfy a request. *See, e.g.*, 24-ORD-278; 24-ORD-229; 16-ORD-052. Further, the Act does not require a public agency to fulfill requests for information. Rather, the Act only requires public agencies to produce extant public records for inspection. *See* KRS 61.872(2)(a) (requiring a request to inspect records to include, *inter alia*, a description of “the records to be inspected”).

The City also directed the Appellant that, in the future, he should “access all of the detailed billing information for its tenants through the portal on the City’s website.” The Office has previously found that a public agency does not comply with requests to inspect records merely by directing requesters to conduct their own search on the agency’s website. *See, e.g.*, 17-ORD-177; 12-ORD-111; 09-ORD-077. However, a direct link to records stored online is sufficient to comply with a request for electronic records. *See, e.g.*, 19-ORD-151.<sup>4</sup> Here, however, the City complied with the Appellant’s request by providing the records he requested. Under KRS 61.880(2)(a), “[i]f a complaining party wishes the Attorney General to review a public agency’s *denial of a request* to inspect a public record, the complaining party shall forward to the Attorney General a copy of the written request and a copy of the written response denying inspection” (emphasis added). Thus, the Office has jurisdiction to adjudicate an agency’s *actual* denial of a request, but not a *potential* denial of a future request. Accordingly, the Office cannot find that the City violated the Act in its disposition of the request at issue.

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](mailto:OAGAppeals@ky.gov).

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<sup>4</sup> An agency can provide a website link to electronic copies of the actual records requested, because the requester need not conduct his own search for responsive records. Simply directing a requester to the agency's website is no different from placing a requester in a file room and telling the requester to search for the records.

**Russell Coleman**  
**Attorney General**

/s/ Matthew Ray  
Matthew Ray  
Assistant Attorney General

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Distributed to:

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