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26-ORD-064

February 24, 2026

In re: Brandy Lain/City of Salyersville

**Summary:** The Office cannot find that the City of Salyersville (“the City”) violated the Open Records Act (“the Act”) because the Office is unable to resolve the factual dispute regarding the timeliness of its responses to requests made under the Act. However, the City violated the Act when it failed to properly invoke KRS 61.872(5) to delay access to public records.

***Open Records Decision***

During the time period of December 25 to 30, 2025, Brandy Lain (“Appellant”) submitted eight requests to the City, seeking a wide range of records related to the City’s operations and management.<sup>1</sup> The requests originated from a complaint the Appellant made to the City about “[p]ersistent and offensive odors consistent with sewer gas” near her residence.<sup>2</sup> On January 12, 2026, the Appellant initiated this

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<sup>1</sup> The eight requests are: (1) a request for City charter and ordinances related records dated December 25, 2025, 6:31 a.m.; (2) a request for sewage and water utility projects related records dated December 25, 2025, 10:03 p.m.; (3) a request for hiring & Personnel related records dated December 29, 2025, 8:26 p.m.; (4) a request for water works funding related records dated December 29, 2025, 8:39 p.m.; (5) a request for records related to water works billing dated December 29, 2025, 8:44 p.m.; (6) a request for records related to the expansion of the City’s boundaries dated December 29, 2025, 8:53 p.m.; (7) a request for salary information dated December 29, 2025, 11:43 p.m.; and (8) a request for maintenance, complaints, and repair records related to the City’s sewage system dated December 30, 2025, 1:11 a.m. The Appellant provided a response from the City dated January 2, 2026, related to her December 25, 2025, 10:03 p.m., request for records regarding the City’s sewage and water utility projects.

<sup>2</sup> On appeal, the City claims it has received 14 records requests from the Appellant. The Appellant only provided copies of eight requests to the Office in this appeal. As a result, these eight requests are the only requests addressed in this appeal. See KRS 61.880(2)(a). On appeal, the Appellant provides two additional records requests to the City and the City’s responses to those requests. However, because the City’s responses to those requests presented new issues on appeal, the Office’s review was limited to the eight requests and responses the Appellant initially provided to the Office.

appeal, claiming that she had not received a response to seven of her requests and that the City's response to her eighth request violated the Act.<sup>3</sup>

Under KRS 61.880(1), a public agency must decide within five business days whether to grant a request or deny it and "notify in writing the person making the request, within the five (5) day period, of its decision." Here, between December 25 and 30, 2025, the Appellant submitted seven requests to the City, and she claims that on January 12, 2026, she had yet to receive a response to those requests. On appeal, the City asserts it timely "issued written responses" to all the Appellant's requests. As proof, the City provides copies of those requests and the City's responses thereto.

Thus, a factual dispute exists between the Appellant and the City as to whether the City issued timely responses to the Appellant's request or whether she received them. 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. Accordingly, the Office cannot find that the City violated the Act because the Office cannot resolve the factual dispute between the parties.

In response to the Appellant's December 25, 2025, 10:03 p.m., request for records related to the City's sewage and water projects, the City invoked KRS 61.872(5) to delay the Appellant's access to them because "the scope of the request, the number of record categories identified, the multiple departments and custodians potentially involved, and the impact of the Christmas holiday closure and reduced staffing, the City requires additional time to conduct a reasonable search for responsive records." The time period described in KRS 61.880(1), may be extended under KRS 61.872(5) when records are "in active use, in storage or not otherwise available," but only if the agency "immediately notif[ies] the applicant" and gives "a detailed explanation of the cause . . . for further delay and the place, time, and earliest date on which the public record will be available for inspection." Determining the reasonableness of a delay under KRS 61.872(5) "is a fact-intensive inquiry." 21-ORD-045. A vague statement about the volume of a request is not a "detailed explanation" under KRS 61.872(5). *See, e.g.*, 22-ORD-164; 17-ORD-194.

Here, the City's response referred only to "the scope of the request" and the need "to conduct a reasonable search" for responsive records. Such a statement, standing alone, was not a "detailed explanation" required by KRS 61.872(5).

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<sup>3</sup> Specifically, the Appellant challenged the City's January 2, 2026, response to her December 25, 2025, 10:03 p.m., request for records related to the City's sewer and water utility projects.

Additionally, the City mentioned a “Christmas holiday closure and reduced staffing” in its response. However, the Act does not provide that an Agency’s obligation to respond to a request is tolled during a closure. Rather, the Act tolls an agency’s duty to “determine . . . whether to comply with the request” only on “Saturdays, Sundays, and legal holidays.” KRS 61.880(1). Moreover, the Office has found that referring to the volume of records and a temporary staff shortage is not a detailed explanation. *See* 21-ORD-136 (asserting “a delay of nearly eight months due to ‘the volume of the records’ and a temporary staff shortage” was not a “detailed explanation.”). Moreover, the City failed to provide a specific date by which the records would be available for inspection, as required by KRS 61.872(5).<sup>4</sup> Thus, the City violated the Act.

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).

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

/s/ Matthew Ray  
Matthew Ray  
Assistant Attorney General

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Distributed to:

Brandy Lain  
Stanley Howard  
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<sup>4</sup> On appeal, the City did not provide a specific date by which the records would be available.