



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

RUSSELL COLEMAN
ATTORNEY GENERAL

1024 CAPITAL CENTER DRIVE
SUITE 200
FRANKFORT, KY 40601
(502) 696-5300

26-ORD-065

February 27, 2026

In re: Barbara Harris/Gallatin County Judge/Executive

Summary: The Gallatin County Judge/Executive (“the Judge/Executive”) violated the Open Records Act (“the Act”) by failing to affirmatively indicate in his original response whether his office possesses certain records. The Judge/Executive also violated the Act by failing to either provide any existing, responsive records within five business days or properly invoke KRS 61.872(5) by providing a detailed explanation of the cause of the delay in providing the records and the earliest date when the records would be available.

Open Records Decision

On January 16, 2026, Barbara Harris (“the Appellant”) submitted a request by email to the Judge/Executive to “formally follow up” on her October 13, 2025, request, originally submitted to the Gallatin County Clerk (“the Clerk”), regarding “subdivision approvals, drainage documentation, and the County’s acceptance of the Ashley Estates roads, including Nicholas Ridge[,] among some other things.”¹ The

¹ In particular, the Appellant requested a copy of the following records pertaining to Ashley Estates: “Original subdivision approval & engineering (circa 2003-2007),” including 1. the subdivision application/approval file,” including staff reports and conditions of approval; 2. “Drainage / stormwater management / grading plans and hydrology calculations”; 3. any “as-built drawings, engineer certifications (e.g., elevations/lowest floor), and punch lists or compliance letters related to drainage, ditching, culverts, or roadway edge”; 4. inspection reports or “site visit notes by County staff/consultants on that property prior to county acceptance”; 5. any “performance bonds / letters of credit (and bond releases) tied to completion of roads/drainage” for that property, including correspondence with the developer (Todd Dorman) or his engineers/contractors; and 6. Planning Commission and/or Fiscal Court minutes where plats or drainage plans for that property were considered or approved (2003–2007). In addition, the Appellant asked for copies of the “County acceptance / transition to public maintenance (2016–2018)”; the Fiscal Court minutes and resolutions documenting “the acceptance of Ashley Estates roads into the county system” and related certifications; “agreements, financing resolutions, or assessment documents” pertaining to bringing Ashley Estates into compliance (2016-2018); and final inspection reports related to drainage/ditching/culverts at the time of acceptance.

Appellant further stated that she had not received “any responsive records, a written denial, or a written notice of delay identifying when records might be produced,” as required by the Act and, therefore, she was resubmitting her request directly to his office “to ensure it is properly directed to the appropriate custodian.” Later that day, the Judge/Executive confirmed receipt of the Appellant’s request and stated he would “process immediately.” However, as of January 29, 2026 (eight business days later), the Appellant had not received any further communication regarding the status of her request. This appeal followed.

In response, the Judge/Executive stated that the Appellant’s request, “by her own evidence, was not made to the proper governmental entity until January 16, 2026. The request made was for records held from January 1, 2000, through December 31, 2018.” Further, the Judge/Executive pointed out that the Appellant acknowledged “the vast timeframe involved” in her request” and that “[a]ll responsive documents which are in the possession of Gallatin County were produced to the [A]ppellant on January 29, 2026[,] just 13 days following her open records request.”

The Judge/Executive provided the Appellant with copies of some responsive records by email attachments on January 29, 2026, but did not identify the records being provided or which of the requested records, if any, his office did not possess. Rather, he stated, “There are *some* documents that don’t exist or are not in our possession. I will be glad to go over this with you if you would like” (emphasis added). This response lacked the specificity required by KRS 61.880(1). *See* KRS 61.880(2)(c).

Under the Act, a public agency must respond to a request for public records “within five (5) days, excepting Saturdays, Sundays, and legal holidays, 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.” If a public agency denies a request, in whole or in part, its response must include “a statement of the specific exception authorizing the withholding of the record and a brief explanation of how the exception applies to the record withheld.” *Id.* A public agency cannot simply ignore portions of a request. *See, e.g.,* 24-ORD-182; 21-ORD-090. If the records exist but a statutory exception permits the agency to withhold the records, the agency must cite the statutory exception and explain how it applies under KRS 61.880(1). Conversely, if certain records do not exist, then the agency must affirmatively state that such records do not exist. *See Bowling v. Lexington–Fayette Urb. Cty. Gov’t*, 172 S.W.3d 333, 341 (Ky. 2005); 24-ORD-182.

Here, the Judge/Executive’s initial response did not fully grant or deny the Appellant’s request, nor did it properly invoke KRS 61.872(5), which permits a public agency to delay production of the records but only if the records are “in active use, in

storage or not otherwise available.” To delay production of records under KRS 61.872(5), a public agency must issue a timely, written response that explains the reason for the delay, and specifies the “earliest date” on which the records will be available for disclosure. KRS 61.872(5). The statute places the burden on the public agency to give a “detailed explanation of the cause” for delay. *Id.*; 25-ORD-151; 21-ORD-125; *see also* KRS 61.880(2)(c). Here, the Judge/Executive sent a written response to the Appellant within five business days but did not cite KRS 61.872(5), provide a “detailed explanation” of the cause for delaying access to any existing, responsive records in the possession of his office, or provide a specific date by which he would provide the records. Accordingly, his initial response also violated the Act by failing to either provide timely access to all existing, responsive, and nonexempt records or properly invoke KRS 61.872(5).²

Moreover, the Judge/Executive’s final response failed to identify which records his office possessed and which records, if any, his office was withholding. Thus, the Judge/Executive’s final response failed to comply with KRS 61.880(1) and, therefore, violated the Act.

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/ Michelle D. Harrison
Michelle D. Harrison
Assistant Attorney General

#076

Distributed to:

Barbara Harris, Appellant
Ryan Morris, Judge/Executive
Amy Stewart, Executive Assistant
Grant Axon, County Attorney

² The reasonableness of the delay is not an issue that is ripe for the Office to review because the Judge/Executive did not provide his final response until after the Appellant initiated this appeal.