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26-ORD-081

March 10, 2026

In re: Daniel Woodie/Kenton County Clerk's Office

Summary: The Kenton County Clerk's Office ("the Agency") did not violate the Open Records Act ("the Act") when it denied requests for public records because the requester had not provided a statement explaining that he was a resident of the Commonwealth at the time of his requests.

Open Records Decision

This appeal concerns requests for public records submitted to three Kenton County Agencies by Daniel Woodie ("the Appellant") on February 3, and 4, 2026. In both requests, the Appellant claimed he was a resident of the Commonwealth under KRS 61.878(10)(a), (d), and (f), and attached a document signed by a resident of Florence, Kentucky, who stated she had "authorized [the Appellant] to request responsive records on [her] behalf under the Kentucky Open Records Act in accordance with KRS 61.870(10)(f)." In a timely response, the Agency denied the requests on the grounds that the Appellant's claims of residency were false. This appeal followed.

Under KRS 61.872(2)(a), "[a]ny resident of the Commonwealth shall have the right to inspect public records." A public agency "may require the applicant to provide a statement in the written application of the manner in which the applicant is a resident of the Commonwealth under KRS 61.870(10)(a) to (f)." *Id.* "Resident of the Commonwealth" is defined in KRS 61.870(10) as follows:

- (a) An individual residing in the Commonwealth;
- (b) A domestic business entity with a location in the Commonwealth;
- (c) A foreign business entity registered with the Secretary of State;
- (d) An individual that is employed and works at a location or locations within the Commonwealth;
- (e) An individual or business entity that owns real property within the Commonwealth;

- (f) Any individual or business entity that has been authorized to act on behalf of an individual or business entity defined in paragraphs (a) to (e) of this subsection; or
- (g) A news-gathering organization as defined in KRS 189.635(9)(b)1.a. to e.

Any one of these subsections is sufficient to qualify a requester as a resident of the Commonwealth for purposes of the Act. *See* 24-ORD-224.

However, a “public agency is not required to simply accept a statement of residency that it knows to be false.” 25-ORD-156. The Office has previously found the Appellant is not a resident of the Commonwealth under KRS 61.878(10)(a) because he “‘works from home’ at a location outside Kentucky” and merely uses a post office box in Kentucky. *Id.* Further, in 25-ORD-397, the Office found the Appellant is not a resident of the Commonwealth under KRS 61.870(10)(d) on the basis of letters from his employer, which “referred to the Appellant as ‘a permanent teleworker living in’ a location not in Kentucky [and] stated that ‘his work is primarily remote’ but ‘he reports to’ a worksite located in Kentucky on an ‘as needed’ basis.” Here, nothing in the record on appeal indicates that those circumstances have changed. However, it is the Agency’s burden “to make a *prima facie* case that the [Appellant] is not a resident of the Commonwealth” under KRS 61.870(10)(f). 25-ORD-156.

When a requester claims to be a resident based on an authorization from another person or entity, the agency may require proof of that authorization. *See* 24-ORD-034. In this case, the Appellant’s claim of residency under KRS 61.870(10)(f) is based on an undated statement from Florence City Councilwoman Angie Cable authorizing him to request records on her behalf under the Act. In 26-ORD-008, the Office found this written authorization was sufficient to establish the Appellant’s residency under KRS 61.870(10)(f). However, after Ms. Cable withdrew her authorization in a January 23, 2026, letter, the Office found that the Kenton County Clerk’s Office did not violate the Act because a revoked authorization could not serve as the basis for a claim of residency. *See* 26-ORD-031.

Now, the Appellant claims Ms. Cable has renewed her authorization and provided a letter to that effect. In response, the Agency points out that the letter is undated, and the most recent *dated* communication from Ms. Cable is her letter revoking her prior authorization. The Appellant then provided a new authorization statement from Ms. Cable, dated February 13, 2026. “A requester must fit the definition of ‘resident of the Commonwealth’ at the time his request is made.” 25-ORD-018. Here, when the Appellant submitted his requests that are at issue here, he provided an undated authorization statement to the Agency. Because the Agency possessed a dated statement withdrawing the authorization, it did not violate the Act by refusing to accept the undated statement and denying the Appellant’s request on

the basis of residency. And, although the Appellant has since provided a dated authorization, it does not retroactively establish residency at the time of the request. Therefore, the Agency did not violate the Act by denying the Appellant's requests on the basis of residency.¹

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.

Russell Coleman
Attorney General

/s/ Zachary M. Zimmerer
Zachary M. Zimmerer
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Distributed to:

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¹ Alternatively, the Agency argues that it may deny the Appellant's requests under KRS 61.872(6), arguing the requests are intended to disrupt its essential functions. Under KRS 61.872(6), "if the custodian has reason to believe that repeated requests are intended to disrupt other essential functions of the public agency, the official custodian may refuse to permit inspection of the public records or mail copies thereof. However, refusal under this section shall be sustained by clear and convincing evidence." The Agency points to: (1) the Appellant's history of repeatedly submitting requests, despite the Office's prior decisions finding he is not a resident of the Commonwealth, (2) his history of appealing the Agency's denials and then dismissing the appeals after the Agency drafts and submits a response on appeal, (3) Ms. Cable's submission of a request identical to the Appellant's and then failing to retrieve those records, and (4) the Appellant's statement that his requests could be narrowed to be less burdensome, if only the Agency were more accommodating to his requests. The Office need not determine at this juncture whether the Appellant's requests at issue here are intended to disrupt the Agency's essential functions because the residency question is dispositive of this appeal. However, the Office notes that the Agency's arguments are not without some merit.