



COMMONWEALTH OF KENTUCKY
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26-ORD-090

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In re: Jesse Reich/Office of the Governor

Summary: The Office of the Governor (“the Agency”) did not violate the Open Records Act (“the Act”) when the requester did not state how he qualified as resident of the Commonwealth.

Open Records Decision

Jesse Reich (“Appellant”) submitted to the Agency an 83-part request for records related to child support enforcement. The Appellant’s request did not include a statement of residency. In a timely response, the Agency denied the request, stating that the Appellant’s request “does not contain any indication that [he is] a resident of the Commonwealth.” This appeal followed.

Under KRS 61.872(2)(a), only a “resident of the Commonwealth” has the right to inspect public records. Further, “[t]he official custodian 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 for purposes of the Act as:

- (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.

KRS 61.870(10). Here, the Appellant did not provide a written statement of how he qualifies as a resident of the Commonwealth.¹ Accordingly, the Agency did not violate the Act when it denied the Appellant's request.

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
Assistant Attorney General

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Distributed to:

Jesse Reich, Appellant
LaTasha Buckner, General Counsel/Chief of Staff
Taylor Payne, Chief Deputy General Counsel

¹ For his part, the Appellant argues that the Freedom of Information Act ("FOIA"), rather than the Open Records Act, is controlling here. The Appellant is incorrect. FOIA is the federal analogue to the Open Records Act; it has not application to requests directed to state and local agencies.