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26-ORD-186

May 1, 2026

In re: Chad Schmidt/City of Newport

Summary: The City of Newport (“the City”) did not violate the Open Records Act (“the Act”) when it refused to accept, as a statement of residency, the address of a post office accompanied by a statement that the requester was “a licensed citizen of Kentucky.” However, the City violated the Act when it denied requests for copies of public records relating to a requester who presented appropriate identification under KRS 61.884. The City properly denied a request for copies of body-worn camera recordings, but must allow the requester to view the footage on City premises under KRS 61.168(5)(d).

Open Records Decision

This appeal concerns two requests for public records submitted to the City by Chad Schmidt (“the Appellant”). In his first request, the Appellant sought copies of “all documents/evidence related to [his] criminal trespassing citation,” including body camera footage and “paperwork/logs sent by Newport on the Levee’s staff to” the Newport Police Department. The second request, more specifically, sought copies of body-worn camera footage and “documentation” of the Appellant’s “interaction with” a named police officer in connection with the same incident. In both requests, the Appellant listed his address as 420 Columbia Street in Newport, Kentucky, and provided the following statement as to how he qualified as a resident of the Commonwealth of Kentucky: “I am a licensed citizen of Kentucky.” The City denied the Appellant’s requests on the grounds that he did “not qualify as a bona fide resident of Kentucky.” More specifically, the City asserted that “[m]erely stating you are a licensed citizen of Kentucky does not qualify” and that “the address [the Appellant] provided is that of the Newport Post Office where no one resides.” 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.* The Act defines “resident of the Commonwealth” in KRS 61.870(10) 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.

Here, the Appellant stated he was “a licensed citizen of Kentucky,” which is not one of the qualifications listed in KRS 61.870(10).

On appeal, the Appellant claims he has “never resided anywhere other than Kentucky.” Although that statement might be sufficient to qualify him as a resident of the Commonwealth under KRS 61.870(10)(a), the Appellant did not include a statement of that nature in his requests to the City. As the Office has previously noted, KRS 61.876(4)(e)2. “allows a public agency to require a statement, *at the time of the request*, as to ‘the manner in which the requester is a resident of the Commonwealth under KRS 61.870(1)(a) to (f).’” 26-ORD-032. Thus, the City’s response to the Appellant’s requests must be evaluated based on the information presented to the City at that time.

The Appellant further argues that his inclusion of a Kentucky address in his requests was sufficient to state the manner in which he was a resident of the Commonwealth. Including a “residential address” within Kentucky constitutes a sufficient statement that the requester is an “individual residing in the Commonwealth” under KRS 61.870(10)(a). 24-ORD-021. On the other hand, the mere “[u]se of a post office box” in Kentucky “does not mean that an individual resides in the Commonwealth.” 25-ORD-397. As the City points out, the address the Appellant provided is that of the United States Post Office in Newport, Kentucky, not a residential address. The City “is not required to simply accept a statement of residency that it knows to be false.” 25-ORD-156. Thus, to the extent the Appellant relies on the address of a post office as a statement of the manner in which he is a resident of the Commonwealth, the City did not violate the Act when it concluded he had failed to include a valid statement of residency.

In this case, however, the Appellant's statement of residency is not the end of the inquiry. The Appellant cites KRS 61.884, which provides "[a]ny person shall have access to any public record relating to him or in which he is mentioned by name, upon presentation of appropriate identification. . . ." Because the records requested by the Appellant relate to him, he argues he is entitled to receive copies of them under KRS 61.884, despite the limitation of the right of inspection to "[a]ny resident of the Commonwealth" under KRS 61.872(2)(a).

There is no conflict between KRS 61.872 and KRS 61.884. Under KRS 61.872, only a "resident of the Commonwealth" may inspect public records, "*except as otherwise provided by*" the Act. KRS 61.872(1) (emphasis added). In turn, KRS 61.884 "otherwise provide[s]," allowing "[a]ny person" to obtain public records "relating to him or in which he is mentioned by name." Based on the text of these two sections, the requirement in KRS 61.872 that only a resident of the Commonwealth may obtain public records under the Act gives way to the broader right of access to records relating to the requester under KRS 61.884.

But even if KRS 61.872's residency requirement is deemed to conflict with KRS 61.884, in such a case, "the more specific statute controls over the more general statute." *Light v. City of Louisville*, 248 S.W.3d 559, 563 (Ky. 2008). Here, KRS 61.872 applies to public records more generally, whereas KRS 61.884 applies specifically to public records "relating to" the requester. Therefore, the Appellant is correct that the right of inspection under KRS 61.884 applies to any person, including him, and not merely to residents of the Commonwealth.¹

However, KRS 61.884 does not prescribe the *manner* in which public records may be inspected under that provision.² At this point, it is appropriate to consider the legislative history of the Act in relation to the manner of inspection. KRS 61.884 is one of the original provisions of the Act and has remained unaltered since its enactment in 1976. Prior to the 1992 enactment of KRS 61.872(3), the general right to inspect public records was contained within KRS 61.872(2), which at that time stated: "Any person shall have the right to inspect public records during the regular office hours of the public agency. The official custodian may require written application describing the records to be inspected." Thus, viewing records in person on the premises of the public agency was the only recognized means of inspection in 1976.

With the 1992 amendments, however, the Act for the first time allowed "[a] person" to inspect records not only "[d]uring the regular office hours of the public

¹ Cf. 24-ORD-034 n.1 (noting KRS 61.880(2)(a) allows "a complaining party," not only a "resident of the Commonwealth," to appeal a denial of inspection to the Attorney General).

² Cf. 23-ORD-272 n.3 (noting KRS 61.884 "does not specify the procedure by which a person must request records that mention him" and referring to KRS 61.872 for guidance).

agency,” KRS 61.872(3)(a), but alternatively, “[b]y receiving copies of the public records from the public agency through the mail,” if the requester is “a person whose residence or principal place of business is outside the county in which the public records are located” and the records are “precisely describe[d].” KRS 61.872(3)(b). As the Office noted at the time, this amendment “reflects a concern that persons residing outside the county where the records are maintained should not be compelled to travel great distances in order to inspect those records.” 92-ORD-1620. In 2021, however, the General Assembly limited the right to inspect public records under KRS 61.872(3)(a) and (b) to “[a] resident of the Commonwealth” instead of “[a] person.”

In light of this history, the question is whether a nonresident of the Commonwealth may inspect public records relating to him by receiving copies through the mail, or *only* by inspecting them in person during regular business hours.³ Because the 2021 amendment to KRS 61.872(3), changing “[a] person” to “[a] resident of the Commonwealth,” applies to subsections (a) and (b) alike, there is no basis to infer a legislative intent specifically to require nonresidents to travel to Kentucky to inspect records relating to them. Moreover, it would lead to absurd results if a person outside Kentucky were subjected to such a requirement while a resident of a different county in Kentucky is not. Therefore, it is reasonable to conclude that a nonresident seeking records relating to him under KRS 61.884 may avail himself of *either* means of inspection set forth in KRS 61.872(3). Accordingly, such a person may obtain copies of precisely-described records relating to him as provided in KRS 61.872(3)(b).

KRS 61.884 imposes the further condition of a “presentation of appropriate identification.” However, the statute neither defines what form of identification is “appropriate” nor specifies the manner of “presentation.” Here, the Appellant claims he provided a copy of his valid driver’s license, which the City does not dispute.⁴ Given that the Appellant requested to inspect records by receiving copies, rather than inspecting in person, the Office finds the Appellant complied with the “presentation” requirement of KRS 61.884 by furnishing a copy of his driver’s license. Therefore, the City violated the Act when it denied the Appellant’s requests for copies of public records relating to him, insofar as the disclosure of those records is governed by the Act.

³ The Office has noted that a person inspecting public records on agency premises has the ancillary right “to obtain copies” of such records “[u]pon inspection” under KRS 61.874(1).

⁴ Although the City claims the “indication” of the Appellant’s address on his license “was fraudulently obtained” because it is the address of the Newport Post Office, the City does not dispute the validity of the driver’s license itself as “appropriate identification” of the Appellant under KRS 61.884.

The Appellant's requests, however, are not *entirely* governed by the Act. Under KRS 61.168(2), "the disclosure of body-worn camera recordings shall be governed by" the Act "[e]xcept as provided in this section." One of those exceptions is KRS 61.168(5)(d), which provides: "If the recording contains video or audio footage that [i]s requested by a person⁵ [who] is directly involved in the incident contained in the body-worn camera recording, it shall be made available by the public agency to the requesting party for viewing on the premises of the public agency, but *the public agency shall not be required to make a copy of the recording* except as provided in KRS 61.169.⁶ The requesting parties shall not be limited in the number of times they may view the recording under this paragraph" (emphasis added). Thus, insofar as the Appellant requested body-worn camera footage related to the incident, he may view the footage on City premises as many times as he wishes, but he is not entitled to obtain a copy of the recording.

In sum, the City did not violate the Act when it refused to accept the Appellant's statement of residency under KRS 61.870(10), but it violated the Act when it denied the Appellant's request for copies of public records relating to him, other than body-worn camera footage, after he presented appropriate identification under KRS 61.884. The City properly denied the Appellant's request for copies of body-worn camera recordings, but it must afford the Appellant unlimited opportunities to view the footage on City premises under KRS 61.168(5)(d).

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/ James M. Herrick
James M. Herrick
Assistant Attorney General

⁵ Significantly for purposes of this appeal, KRS 61.165(5)(d) does not limit the right to view body-worn camera footage to residents of the Commonwealth.

⁶ KRS 61.169, which does not apply here, allows the involved party's attorney to obtain a copy of a body-worn camera recording under specified circumstances.

#288

Distributed to:

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