



COMMONWEALTH OF KENTUCKY  
OFFICE OF THE ATTORNEY GENERAL

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26-ORD-248

June 2, 2026

In re: Kurt Wallace/Bullitt County Fiscal Court

**Summary:** The Bullitt County Fiscal Court (“the Fiscal Court”) did not violate the Open Records Act (“the Act”) when it answered interrogatories or when it provided all responsive records that it possesses. However, the Office cannot resolve the factual dispute between the parties as to what records the Fiscal Court possesses and whether they were made available for inspection or the content of the records the Fiscal Court did provide.

***Open Records Decision***

On April 12, 2026, Kurt Wallace (“Appellant”) submitted an email to the Fiscal Court containing a 13-part request for records.<sup>1</sup> On April 20, 2026, the Fiscal Court

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<sup>1</sup> Specifically, the Appellant requested records showing: (1) “[c]ontracts, engagement letters, agreements, retention letters, amendments, purchase orders, or other records reflecting a contractual or service relationship between Bullitt County Fiscal Court, or any entity under Bullitt County Fiscal Court for which Bullitt County Fiscal Court has records, and any of the following reflecting said contractual or service relationship with” six specific persons or entities; (2) “[t]he services provided by any” previously identified person or entities “or any entity under Bullitt County Fiscal Court for which Bullitt County Fiscal Court has records”; (3) “[a]ll payments made to any of the persons or entities listed above”; (4) “[t]he nature and purpose of each payment made to any of the persons or entities listed above”; (5) “[t]he person, office, officer, employee, agent, department, or authority that authorized each payment made to any of the persons or entities listed above”; (6) “[t]he legal, administrative, contractual, budgetary, delegated, or other authority of the authorizing person or official to authorize each such payment”; (7) “[a]ny payments made to any of the persons or entities listed above by any entity under Bullitt County Fiscal Court for which Bullitt County Fiscal Court has records sufficient to show such payments”; (8) “whether public funds were used to make payments to any of the persons or entities listed above”; (9) “whether private funds were used to make payments to any of the persons or entities listed above”; (10) “any approval, ratification, vote, consent, or other authorization by members of Bullitt County Fiscal Court for payments made to any of the persons or entities listed above, including minutes, agendas, resolutions, orders, memoranda, or other records reflecting such approval or authority”; (11) “[a]ccounting records, invoices, billing statements, claim summaries, check registers, warrants, payment vouchers, requisitions, general ledger entries, budget

provided records responsive to parts 1, 2, 3, 4, 7, 11, 12, and 13 of his request.<sup>2</sup> The Fiscal Court also granted part 5 by providing the information requested. The Fiscal Court also granted parts 6 and 10 and provided links to its budgets and minutes. Last, the Fiscal Court denied parts 8 and 9 because “[n]o such records exist,” as it does “not pay with any private funds.” This appeal followed.<sup>3</sup>

First, the Appellant complains that he did not receive records regarding part 5 of his request. The Act does not require public agencies to answer interrogatories or provide information in whatever form a requester demands. Rather, residents of the Commonwealth may only inspect identifiable “public records” after submitting a request “describing the records to be inspected.” KRS 61.872(2)(a). Here, the Appellant’s request for “[t]he person, office, officer, employee, agent, department, or authority that authorized each payment made to any of the persons or entities listed above” did not describe specific public records to be produced; rather, it asked the Fiscal Court for information. Although the Fiscal Court was not required under the Act to compile and provide that information, it chose to do so. As a result, the Fiscal Court did not violate the Act by how it addressed part 5 of the Appellant’s request.

Next, the Fiscal Court denied parts 8 and 9 of the Appellant’s request, stating that it does not possess any records responsive to those parts. Once a public agency states affirmatively that a record does not exist, the burden shifts to the requester to make a *prima facie* case that the requested record does or should exist. *See Bowling v. Lexington–Fayette Urb. Cnty. Gov’t*, 172 S.W.3d 333, 341 (Ky. 2005). If the requester makes a *prima facie* case that the record does or should exist, then the public agency “may also be called upon to prove that its search was adequate.” *City of Fort Thomas v. Cincinnati Enquirer*, 406 S.W.3d 842, 848 n.3 (Ky. 2013) (citing *Bowling*, 172 S.W.3d at 341). A requester’s bare assertion that a public agency should or must possess the requested records is not adequate to make a *prima facie* case that the agency does, in fact, possess the records. *See, e.g.*, 22-ORD-040.

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entries, accounts payable records, and any other records sufficient to account for payments made to any of the persons or entities listed above”; (12) “[r]ecords sufficient to show the source of funds for each payment made to any of the persons or entities listed above”; and (13) “[r]ecords sufficient to show any services contracts or agreements with any of the persons or entities listed above for legal services, consulting services, advisory services, administrative services, or any other services.”

<sup>2</sup> On April 13, 2026, the Fiscal Court confirmed receipt of the request.

<sup>3</sup> On appeal, the Appellant asserts that the Fiscal Court failed to “identify the custodian of the records” he requested. Under KRS 61.872(4), “[i]f the person to whom the application is directed does not have custody or control of the public record requested, that person shall notify the applicant and shall furnish the name and location of the official custodian of the agency’s public records.” However, the Fiscal Court did not deny any of the 13 requests on this basis.

Here, the Appellant alleges that the Fiscal Court has not provided him with all responsive records. But the Appellant merely asserts that additional records exist. This bare assertion does not make a *prima facie* case that the Fiscal Court does or should possess additional records. Moreover, the Fiscal Court specifically explains that “no such records exist” responsive to parts 8 and 9 because it does “not pay with any private funds.” In the face of the Appellant’s bare assertion that additional records exist, the Appellant has failed to make a *prima facie* case that additional records exist. Accordingly, the Office cannot find that the Fiscal Court violated the Act by not providing records it does not possess.

Finally, the Appellant asserts that the Fiscal Court “failed to provide the records requested.” As proof, the Appellant provides screenshots of broken weblinks and copies of the records the Fiscal Court provided.<sup>4</sup> Ultimately, a factual dispute exists between the parties regarding whether the requested records were made available to the Appellant or whether the records made available were those he requested.

The Office has regularly found it is unable to resolve factual disputes between the parties to an appeal under KRS 61.880(2)(a), including disputes about whether the requested records were actually made available to the requester. *See, e.g.*, 22-ORD-010 (the Office is unable to resolve a factual dispute between the parties regarding whether the records that have been provided are different from those records sought); 19-ORD-083 (stating this Office cannot “resolve the factual dispute between the parties regarding the disparity between records which have been provided and those sought but not provided”). Similarly, here, the Office cannot resolve the factual dispute between the parties as to whether the Fiscal Court made the records available to the Appellant because the Office cannot make a factual finding about what records the Fiscal Court possesses and whether they were made available for inspection. As a result, the Office cannot find that the Fiscal Court violated the Act when it granted the Appellant’s requests and provided records it deemed responsive to those requests.

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<sup>4</sup> The Office has previously found that a public agency does not comply with requests to inspect records merely by directing requesters to conduct their own search on the agency’s website. *See, e.g.*, 17-ORD-177; 12-ORD-111; 09-ORD-077. However, a direct link to records stored online is sufficient to comply with a request for electronic records. *See, e.g.*, 19-ORD-151. The Office notes that the weblinks at issue do take the user to the relevant parts of the Fiscal Court website.

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/ Matthew Ray  
Matthew Ray  
Assistant Attorney General

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Distributed to:

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