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26-ORD-260

June 4, 2026

In re: Fritz Rochester/Louisville Metro Government

Summary: The Office cannot find that the Louisville Metro Government (“Metro”) violated the Open Records Act (“the Act”) because Metro established by clear and convincing evidence that a request it denied posed an unreasonable burden under KRS 61.872(6).

Open Records Decision

On April 4 and 5, 2026, Fritz Rochester (“Appellant”) submitted a total of 36 requests to Metro seeking communications sent to or from two Metro employees. Each request seeks communications specified by keyword and related to one of the two Metro employees. Further, each request is limited to a different timeframe. Cumulatively, the Appellant’s requests seek communication sent or received over a combined six-month period. In response, Metro denied the requests under KRS 61.872(6) because fulfilling them would impose an unreasonable burden on it and because the Appellant intended to disrupt Metro’s essential functions. This appeal followed.

Under KRS 61.872(6), if a request for public records “places an unreasonable burden in producing public records . . . 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.” “When determining whether a particular request places an unreasonable burden on an agency, the Office considers the number of records implicated, whether the records are in a physical or electronic format, and whether the records contain exempt material requiring redaction.” 22-ORD-221. Of these, the number of records implicated “is the most important factor to be considered.” 22-ORD-182. Further, when considering whether a series of requests “imposes an unreasonable burden on the agency, multiple simultaneous ‘applications’ from one person may be considered, so that a requester

cannot evade the import of KRS 61.872(6) by simply breaking up one voluminous request into numerous smaller ones.” 26-ORD-064.

In 25-ORD-322, the Office found an agency had shown an unreasonable burden by clear and convincing evidence when its search resulted in 11,482 emails and attachments, which required review for “exemptions under personal privacy and [the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g], and potentially attorney-client privilege or preliminary drafts, notes, correspondence, or recommendations or memoranda.”

Here, the Metro asserts that its search yielded about 35,000 total responsive emails. It further explains that those 35,000 emails would need to be reviewed and redacted or withheld because they will likely contain “proprietary information, prospective business locations, ongoing investigations into code violations, preliminary drafts, attorney-client privilege, and contract procurement.”

Consequently, here, the burden on the Metro is greater than the burden found to be unreasonable in 25-ORD-322. Accordingly, Metro has established by clear and convincing evidence that it properly denied the requests under KRS 61.872(6). As a result, the Office cannot find that the Metro violated the Act.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.

¹ Because the Appellant’s request imposes an unreasonable burden on the Metro, the Office need not address the Metro’s alternative argument that the Appellant intended to disrupt its essential functions.

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/s/ Zachary M. Zimmerer
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