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26-ORD-447

October 6, 2026

In re: Amberly Frandsen/Somerset Police Department

Summary: The Somerset Police Department ("the Department") violated the Open Records Act ("the Act") when it denied a request for public records on the basis of residency, when the requester stated the manner in which she qualified as a resident of the Commonwealth under KRS 61.870(10).

Open Records Decision

Amberly Frandsen ("the Appellant") submitted a request to the Department for records relating to a specific case number. The Appellant stated she qualified as a resident of Kentucky because she was "[a]n individual residing in the Commonwealth." However, she provided a mailing address in Missouri. The Department denied the Appellant's request on the grounds that she had "not met [the Kentucky residency] requirement with the information provided." 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.

On appeal, the Appellant states she is a resident of the Commonwealth under KRS 61.870(10)(a) because she is domiciled in Somerset, Kentucky. But she also states that she is temporarily staying with a friend in Missouri and, therefore, listed the friend's mailing address on her request.

A "public agency is not required to simply accept a statement of residency that it knows to be false." 25-ORD-156. However, "the burden is on the agency to make a *prima facie* case that the requester is not a resident of the Commonwealth." *Id*. Here, the Department relied on the Appellant's temporary mailing address in Missouri to conclude that she was not a Kentucky resident. But the Appellant has provided an explanation and a copy of her Kentucky driver's license to rebut the Department's position. Moreover, in response to this appeal, the Department states the Appellant made a subsequent request for records, in which she "explained the situation" regarding her residency.[1] The Department apparently accepted that explanation and processed the Appellant's subsequent request. Therefore, the Department violated the Act when it denied the Appellant's original request on the basis of residency.

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/ Zachary M. Zimmerer
Zachary M. Zimmerer
Assistant Attorney General

[1] The Appellant's subsequent request is not at issue in this appeal.

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Distributed to:

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