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26-ORD-456

October 14, 2026

In re: Howard Froelicher/Pendleton County Property Valuation Administrator

Summary: The Pendleton County Property Valuation Administrator ("the PVA") did not violate the Open Records Act ("the Act") by declining to provide copies of records to a county resident prior to his onsite inspection of the records under KRS 61.872(2)(a) and KRS 61.874(1).

Open Records Decision

On Saturday, August 29, 2026, Howard Froelicher ("the Appellant") submitted a request "concerning two properties near the former Falmouth School Center" that sought "any existing PVA property-card history, prior-owner history, deed references, transfer dates, and recorded consideration information" related to the properties. Later that day, the Appellant submitted a "narrow supplement" to his "owner-name request," asking the PVA to "include historical/prior-owner records, not just current owner-name results, for ACADEMY ESTATES LLC and the Chapel/Maple area around the former Falmouth school." Finally, the Appellant requested from the PVA "any existing Pendleton County PVA parcel/property-card records that can be located by owner name for [19 listed] names and entities." The Appellant clarified that he is not asking the Department "to investigate or create a new analysis; an export, list, screenshot, or property-card result from the existing owner-name index is sufficient." For each "matching real-property record, if available in the existing PVA system," the Appellant further asked for "the parcel/APN, situs address, owner name and mailing address, current assessment, deed book/page or instrument reference, deed/transfer date, and any prior-owner or historical transfer information already maintained in the PVA record." The Appellant noted that "[i]f the PVA system only retains current ownership, current matches plus the deed reference/date are perfectly sufficient[.]" Later that day, the PVA responded stating that "moving forward [he] would point [the Appellant] to the website that [it has, which] contains all the info that [it has] in the office. If that is not an option for [the Appellant], [it has] a public terminal that

can be utilized for free but there would be a charge for all items printed."[1] This appeal followed.

On appeal, the Appellant challenges the "responses and nonresponses" to his August 29 requests. Upon receiving notification of this appeal from the Office, the Pendleton County Attorney responded on the PVA's behalf, first stating that the PVA "acted properly when he required onsite inspection prior to furnishing the requester with copies of the records being sought per KRS 61.872(3)(b), even if he resides or works outside the county where the records are located, as he did not 'precisely describe' records which are 'readily available' within the agency." Notwithstanding the Appellant's contention that he is not asking the PVA to conduct research, on appeal the PVA notes that "was in fact what he was asking [him] to perform – in effect, a title search." Citing 18-ORD-068, the PVA emphasizes that because the Appellant's requests did not "specifically delineate and/or identify the records he wished to receive," fulfilling the requests "would have required the PVA to conduct hours of research to identify the documents." The PVA maintains that under the Act, he is permitted to provide the Appellant with an opportunity to conduct onsite inspection of existing public records prior to providing him with copies, and he is not required to perform research.[2] As discussed below, existing legal authority construing KRS 61.872(3) confirms the PVA is authorized to require the Appellant to conduct onsite inspection of the records prior to providing him with copies because the Appellant resides in the county where the records are located.

Under KRS 61.880(1), a public agency has five business days upon receipt of a request in which to send a written response and either comply or deny the request and explain why. Here, the PVA received the Appellant's August 29 requests on the following business day, Monday, August 31, 2026, and responded timely later that day in compliance with KRS 61.880(1). The PVA did not deny the Appellant's requests, nor did he delay production of the records. Instead, the PVA advised the Appellant of his right to inspect all existing records in the possession, custody, or control of his agency that may be responsive to some or all of the requests or that may

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[1] The Office has consistently 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.*, 26-ORD-022; 17-ORD-177; 12-ORD-111; 09-ORD-077. However, a direct link to records maintained online is adequate to comply with a request for electronic records. *See*, *e.g.*, 19-ORD-151. In this case, however, the PVA offered inspection through its website in the alternative, rather than as a substitute, and complied with KRS 61.872. Accordingly, the Office finds no violation by the PVA in this regard.

[2] The County Attorney notes on appeal that while handling prior, unrelated correspondence from the Appellant, she learned that he "not only resides in Pendleton County, but in Falmouth, within walking distance of the location of the PVA office, the County Clerk's office, and the public terminals for both offices." The Appellant does not refute this assertion. Further, the record on appeal in Log No. 710, which resulted in 26-ORD-421 (Howard Froelicher/City of Falmouth, rendered September 17, 2026), provides independent confirmation that the Appellant resides in Falmouth, which is determinative under KRS 61.872(3)(b).

contain some of the requested information, *i.e.*, be partially responsive, by utilizing the public terminal at no cost unless he requested copies following his inspection. *See* KRS 61.874(1), (3). In so doing, the PVA relied upon KRS 61.872(2)(a) and (3)(b).

Under KRS 61.872(2)(a), "[a]ny resident of the Commonwealth shall have the right to inspect public records."[3] Inspection of public records on the agency's premises is the basic right provided by the Act. 25-ORD-222. "*Upon inspection*, the applicant shall have the right . . . to obtain copies of all public records not exempted by the terms of KRS 61.878." KRS 61.874(1) (emphasis added). Thus, under KRS 61.874(1), a requester's right to obtain copies of records is conditioned on his first inspecting them. *See*, *e.g.*, OAG 76-375 (finding that "[t]he right to have copies of records is ancillary to the right of inspection and does not stand by itself," and therefore, "[i]f a person has not inspected the records he desires to copy[,] there is no requirement that copies of any records must be delivered to him"); OAG 82-629 (finding that the Act "does not contemplate that a public agency shall send requested records to a person who has not inspected them"); 25-ORD-222.

In 1992, the General Assembly enacted KRS 61.872(3), which provides that public records may be inspected either "[d]uring the regular office hours of the public agency" or "[b]y receiving copies of the public records from the public agency through the mail." The second alternative, however, is not available to all requesters. Rather, "[t]he public agency shall mail copies of the public records to a person whose residence or principal place of business is outside the county in which the public records are located after he or she precisely describes the public records which are readily available within the public agency." KRS 61.872(3)(b) (emphasis added). Thus, a requester who lives in the county where the records are located, such as the Appellant, is not entitled to receive copies of the requested records by mail without first inspecting them in person. *See Commonwealth v. Chestnut*, 250 S.W.3d 655, 661 (Ky. 2008) (finding that "KRS 61.872(3)(b) seemingly applies when someone residing outside the county in which the public records are located desires to receive copies of the public records through the mail," not a person "in the same county as the records kept by the custodian"); *see also* 97-ORD-46 (finding that "[a] requester who both lives and works in the same county where the public records are located may be required to inspect the records prior to receiving copies"); 92-ORD-1620 (finding that KRS 61.872(3)(b) "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"); 25-ORD-222; 18-ORD-068; 16-ORD-242.

[3] Whereas KRS 61.872(2) merely requires a requester to "describ[e]" the records that he wishes to access by onsite inspection, KRS 61.872(3)(b) requires the requester to "precisely describe" the records if he wishes to receive copies. "[N]othing in KRS 61.872(2) contains any sort of particularity requirement." *Commonwealth v. Chestnut*, 255 S.W.3d 655, 661 (Ky. 2008).

The record on appeal establishes that the Appellant resides in Falmouth, Kentucky, a city in Pendleton County; likewise, the records are located in Pendleton County. The Appellant did not provide the PVA with an employment address located outside Pendleton County when submitting the subject requests. Accordingly, the Appellant has not satisfied the threshold requirement of KRS 61.872(3)(b) because he does not reside or work, *i.e.*, have his principal place of business, outside Pendleton County, and the PVA is therefore permitted to require him to conduct onsite inspection of records potentially responsive to his requests prior to furnishing him with copies.

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/ Michelle D. Harrison
Michelle D. Harrison
Assistant Attorney General

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Distributed to:

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