

Requestor Email

Requestor Phone Number

**Which Metro Government
Agency or Agencies**

Do You Think Holds the Record(s)?

Specific Type of Record *

**Will the Record be used for
Commercial Purpose? ***

Records Timeframe

From:

To:

Preference on Review of Records? *

**Describe the specific record or records you
wish to examine here or submit attachment
with record description below: ***

Other

Other

No

Saturday, June 1, 2013

Saturday, May 10, 2014

PDF files on Email (if systems allow)

I would like any and all email correspondence between Metro Animal Services employee Heather Adkins and the following individuals: Kim Ward, Margaret Brosko, Alisa Oerther and Tabitha Gray, for the period of June 1, 2013 to May 10, 2014.

Thank you,

Karen Dickson

[Print](#)[Close](#)

From: **Allen, Dee Q** (Dee.Allen@louisvilleky.gov)
Sent: Wed 7/02/14 8:44 AM
To: **Open Records** (openrecords2@louisvilleky.gov); [REDACTED]
[REDACTED]

Ms. Dickson:

To follow up on our commitment below, we have identified voluminous records meeting your request description utilizing the revised search protocols by Metro Technology Services and can make the record copies available on a single CD for the standard cost recovery charge of \$2 if picked up from our offices below or \$4 if mailed; you may remit payment to my attention by check payable to: Louisville Metro Government. If you wish to pick up the CD, please contact me by phone to arrange for a mutually convenient time. Some of the record copies contain redactions of home address, home phone number and personal email address in protection of personal privacy consistent with KRS 61.878(1)(a) which holds that the unwarranted invasion of personal privacy may not serve a public purpose.

By providing copies of all responsive records identified meeting your request description, we will consider this request to be complete and compliant with the provisions of the Kentucky Open Records Act.

Dee Allen
Open Records Coordinator
Louisville Metro Office of Management and Budget
611 W. Jefferson St.
Louisville, KY 40202
(502) 574-3576

To submit an open records request: <http://www.louisvilleky.gov/openrecords>

[Print](#)[Close](#)

From: **Open Records** (openrecords2@louisvilleky.gov)
Sent: Tue 6/24/14 4:13 PM
To: [REDACTED]
Cc: openrecords2@louisvilleky.gov

Ms. Dickson:

In response to your open records request below, we have been advised by Metro Technology Services that under a revised search process which was initiated June 23, the agency will seek to restore email records for former employees of Louisville Metro Government that have not yet been destroyed for the purposes of conducting a search in response to a request filed under the Kentucky Open Records Act, when such email records are in fact able to be identified and restored. The previous standard search process did not include a search of the former employee records removed from and unavailable to the system and scheduled for destruction in accordance with agency policy.

MTS staff is conducting that restoration assessment at the present time for the former employee records named in your request below and we expect to be able to provide the outcome and identify and provide copies of any responsive, nonexempt records meeting your request description by Tuesday, July 2nd, should that restoration be successful.

We apologize for the delay during this search protocol transition by MTS and will notify you if the results are available prior to that date.

Dee Allen
Open Records Coordinator
Louisville Metro Office of Management and Budget
611 W. Jefferson St.
Louisville, KY 40202
(502) 574-3576
To submit an open records request: <http://www.louisvilleky.gov/openrecords>

From: Open Records Requests [mailto:no-reply@wufco.com]
Sent: Friday, June 20, 2014 3:31 PM
To: Open Records
Subject: ORR #590 Karen Dickson - Other Other 06/20/2014

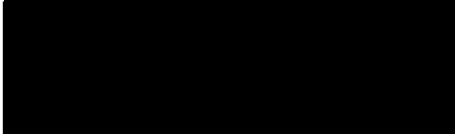
Requestor Name * Karen Dickson

Are you a media organization? * No

Requestor Address *



Karen L. Dickson



June 17, 2014

James Herrick
Office of Attorney General
700 Capitol Avenue
Suite 118
Frankfort, KY 40601

Log Number 201400231

Dear Mr. Herrick,

Metro Animal Services (hereinafter "LMAS") has kindly removed the redactions of the documents they sent to me, which was one of my original complaints to the Attorney General's office on May 13, 2014. In my June 4, 2014 letter to your office, I stated that I have information from several credible sources, including individuals to whom the emails were sent, that the documents turned over to me were incomplete. However, in their June 9, 2014 letter, LMAS maintains that all such documents meeting my "vague request" have been provided to me.

My initial open records request on April 4, 2014 requested "any and all email correspondence, text messages, medical records, Chameleon records (including comments) regarding a dog named Sadie, ID number A485350 from the time period of 2-3-13 to 4-4-14. Medical records should include who provided treatment if not provided by LMAS. I am also requesting information regarding donations made to this animals care, including the amount of donation, donors names and amount of donation, who collected the donation, where and how much of the donations were spent on the animals medical care."

I do not believe there is anything remotely "vague" about this request and when writing it I was very specific in my wording as not to allow LMAS and Ms. Allen to find some sort of loophole or technicality to deny my request as they have done so in the past. However, it now seems the strategy employed by LMAS is to deny that certain documents even exist in order to stonewall and protect their employees. The one donation receipt they did release (copy attached) stated the donor was "Animal House" which is the name of their adoption center, not an individual. According to the foster parent, there were other donations made in December 2013 but those receipts were not provided to me.

* If we are to take them at their word and accept that no other correspondence exists about this animal, I believe we have another issue to address. Sadie the dog came into LMAS on Feb. 3, 2013 and was sent to Jefferson Animal Hospital for evaluation. On Feb. 4, 2013, LMAS employee Janet Dudick wrote in an email to Rebecca Riggs and Tabitha Gray, other LMAS employees (Ms. Gray an employee in the veterinarian department at LMAS), that Jefferson Animal Hospital recommended that Sadie's leg be amputated in the future. Based on the documents provided by LMAS, the next correspondence of any kind between the LMAS employees regarding this dog was over 8 months later, when Kim Ward, an Adoption Coordinator at LMAS, wrote to Brenda Keel in the LMAS vet department, stating that another employee said they were "just waiting on some supplies to actually do the surgery." During this time, her foster parent, Heather Adkins, maintains she kept inquiring to LMAS management when Sadie could have the operation. Ms. Adkins states she has several emails between herself, Margaret Brosko, Communications Specialist at LMAS and Donald Robinson, Interim Director, asking if donations could be collected for the surgery, etc. Eventually, according to Ms. Adkins, Ms. Brosko sent her an email stating that the money collected for Sadie's surgery was spent on another animal at the shelter, but she was free to take Sadie to her personal veterinarian at her own expense. On Feb. 21, 2014, over four months after the last documented correspondence about Sadie, Heather Adkins did just that and took the dog to her personal veterinarian because Sadie had started "self mutilating" her lame leg. A week later, Sadie became gravely ill, when after chewing her leg almost off, some of the material from the leg and the bandages became lodged in her intestines. In desperation Ms. Adkins contacted The Arrow Fund to request their assistance. The Arrow Fund handles only cases of "severe abuse and neglect" but thought this case fit their criteria and took Sadie to Blue Pearl Veterinarian Hospital. Sadly, it was determined that Sadie's condition was beyond hope and she was euthanized soon after arrival at the hospital.

I have attempted with only a small degree of success to compile the actual records that would substantiate what I have been told by the parties involved with this situation. It is my opinion that an agency that states its mission is to "ensure the health, wellness and humane care of the animals in the care and custody of the Department of Animal Services" has failed miserably at this endeavor. Sadie was the property of Metro Animal Services, not the property of her foster parent and as such, they should have provided her with a reasonable amount of medical care. Instead, they waited over a year to get her the medical care their own experts said she needed (but never received), collected money on her behalf (copy of donation letter enclosed), spent that money on another animal and left her to remove the leg herself. Sadie was not provided with even perfunctory care and died a long and protracted death because of LMAS and their negligence.

Rebecca Eaves with The Arrow Fund has pictures of Sadie and knows the condition she was in when she took her to Blue Pearl. I spoke to her the day after Sadie was euthanized and she was appalled by the lack of medical help LMAS provided this dog but was reluctant to come forward because her organization wants to continue to help the LMAS animals. She felt that speaking out would only alienate her organization from LMAS, a tactic they use that is well known in the rescue community. I have attached a copy of a posting she made on Facebook the day Sadie was euthanized, in which she refers to the

case as one of "severe neglect" and went on to state "it is very sad that the agency that had ownership did not have her leg amputated as promised to the foster....so much suffering could have been avoided if this sweet girl would have had her leg amputated in September 2013." A current employee with LMAS claims to have copies of the emails between Heather Adkins and Margaret Brosko but is concerned about losing her job and/or retaliation if she releases them. Heather Adkins copied all correspondence between herself and Margaret Brosko, Donald Robinson and others, but cannot find the file containing her emails.

I firmly believe that all the stonewalling by LMAS, then providing only selected documents with redacted employee names was no more than an attempt to protect these individuals from a criminal complaint of animal neglect/cruelty/abuse and misappropriation of funds. I respectfully request that the Office of Attorney General investigate this as a criminal matter, based on the information provided.

Sincerely,

Karen L. Dickson

Cc: Brianda A. Rojas
Dee Allen

From: Open Records
Sent: Wednesday, April 16, 2014 2:57 PM
To: karen dickson; Open Records
Subject: RE: ORR #335 Karen Dickson - Other Other 04/04/2014

Ms. Dickson:

This serves to acknowledge your renewed and clarified request. We will respond once your request has received consideration by the affected parties.

Dee Allen

Open Records Coordinator

Louisville Metro Office of Management and Budget

611 W. Jefferson St.

Louisville, KY 40202

(502) 574-3576

To submit an open records request:

From: karen dickson [REDACTED]
Sent: Wednesday, April 16, 2014 1:57 PM
To: Open Records
Subject: RE: ORR #335 Karen Dickson - Other Other 04/04/2014

Dear Ms. Allen,

I have received some of the items requested in my Open Records request of 4-4-13, however, these items do not complete my request. Specifically, I know there were more than 2 email messages (and possibly text messages) regarding this dog and you have supplied only two, on 2-4-13 and 10-14-13. LMAS's Chameleon notes end on 9-6-13 when I know the dog was transferred to a rescue on 2-28-14. There would have been more correspondence between these two dates as the dog's worsening health was becoming an issue and she became gravely ill in February 2014. She returned to LMAS briefly in Feb. 2014, even the kennel cards reflect this. However, notes, emails, and texts regarding her health after October 2013 are missing.

With regards to the abundance of redactions, please re-submit the items without redactions. In an opinion by Jack Conway, Attorney General, regarding a complaint made by Philip W. McKinley against Louisville-Jefferson County Metro Government, regarding redactions (OAG 12-149), Mr. Conway stated:

[A] generic determination that certain categories of information are excluded from the mandatory disclosure provisions of the Open Records Law under [KRS 61.878(1)(a)], or any other exception does not satisfy the requirements of the law. In reaching this decision, we are guided by several pertinent sections of the law, bearing in mind that the "basic policy of KRS 61.870 to 61.884 is that free and open examination of public records is in the public interest." KRS 61.871. First of all, KRS 61.880(2) mandates that the burden of proof in sustaining a public agency's denial of an open records request rests with the agency. **Second, an agency can properly rely on KRS 61.878(1)(a) in withholding a record only if it can establish that the public's interest in release of the record is outweighed by the individual's privacy interest. Finally, KRS 61.878(4) makes explicit the requirement of particularized justification[.]**

Mr. Conway further stated:

[1] "[A] person's name is personal but it is the least private thing about him The name of a person should not be deleted from a public record unless there is some special reason provided by statute or court order (i.e., adoption records)." OAG 82-234, at p. 3 (emphasis added); 07-ORD-199. See 98-ORD-123 (upholding the decision to release a witness report, including the name, but with home address and telephone number redacted under KRS 61.878(1)(a)).

I don't believe providing the name of an employee, or veterinarian for that matter, constitutes a "privacy or safety concern," and redacting that information is an overreach of your authority and an improper reliance on KRS 61.878 as support for the decision to do so. The blanket redaction of names is not allowed under KRS 61.878(1)(a) and I have attached the aforementioned opinion for you to review again. However, I'm sure you are already aware of OAG 12-149 as the opinion was originally sent to you as well as Mr. McKinley.

I look forward to receiving my Open Records request in its entirety.

Best Regards,

Karen Dickson

From: openrecords2@louisvilleky.gov

To: [REDACTED]

Subject: RE: ORR #335 Karen Dickson - Other Other 04/04/2014

Date: Wed, 9 Apr 2014 13:21:35 +0000

In response to your request below, Louisville Metro Animal Services has identified and provided copies of all responsive records meeting your request description. The copies contain redactions in protection of personal privacy/safety consistent with KRS 61.878(1)(a) as well as items that are nonresponsive to your request as noted on the record. This completes your request.

Dee Allen

Open Records Coordinator

Louisville Metro Office of Management and Budget

611 W. Jefferson St.

From: Dee.Allen@louisvilleky.gov

To: [REDACTED]

Subject: RE: ORR #335 Karen Dickson - Other Other 04/04/2014

Date: Fri, 25 Apr 2014 12:14:39 +0000

Ms. Dickson:

Louisville Metro Government is not the records custodian for records held or promulgated by the courts. The contact information for filing a request with the Administrative Office of the Courts appears below as a courtesy:

Administrative Office of the Courts

1001 Vandalay Drive

Frankfort, KY 40601

Phone: 502-573-2350

Dee Allen

Open Records Coordinator

Louisville Metro Office of Management and Budget

611 W. Jefferson St.

Louisville, KY 40202

(502) 574-3576

To submit an open records request:

From: karen dickson [REDACTED]
Sent: Thursday, April 24, 2014 9:47 PM
To: Allen, Dee Q
Subject: RE: ORR #335 Karen Dickson - Other Other 04/04/2014

Dear Ms. Allen,

Could you please cite the specific "judicial decisions related specifically to the protection of an individual's privacy/name" that you believe support your position to retain the redactions?

Thank you,

Karen Dickson

5:30 Sent w/o redactions

From: Dee.Allen@louisvilleky.gov [REDACTED]
To: openrecords2@louisvilleky.gov [REDACTED]
Subject: RE: ORR #335 Karen Dickson - Other Other 04/04/2014
Date: Thu, 24 Apr 2014 20:22:44 +0000

Ms. Dickson:

In response to your protest in paragraph 1) below, we are reiterating that copies of all responsive records meeting your request description that were identified and in the custody of Louisville Metro Animal Services on the date of your request have previously been provided. If "notes, emails and texts" existed at some point, as you contend, but were not retained in the normal course of business by the agency, then we cannot provide copies of records that are no longer available.

ghovious@fmhd
do w

In response to your protest in paragraph 2) to what you characterize as "the abundance of redactions," there are notes made by the Louisville Metro Animal Service staff within the records indicating that the bulk of redactions relate simply to removal of non-responsive records that were comingled with the responsive portions of the records. We believe that providing only the responsive portions of the records requested would not be objectionable.

However, if your protest centers on our redaction of the Louisville Metro Animal Service personnel names, then you are correct that we are indeed relying on preserving the public's interest in the application of KRS 61.878(1)(a) by providing protection to the public employees which are believed to be in personal danger of retaliation or other harm if their identities are revealed. While we are aware of the OAG 12-149 outlining appropriate application of KRS 61.878(1)(a), there have been subsequent judicial decisions related specifically to the protection of an individual's privacy/name that we believe support our position.

However, the most compelling reason for our continued protection of the individual names is literally to protect these public employees, who were performing their assigned duties in accordance with their employment, from possible harm. If the nature of your request is related to assessing whether an adequate standard of care was performed by the staff of Louisville Metro Animal Services, then the records as provided should be sufficient to fully satisfy your request.

Dee Allen

Open Records Coordinator

Louisville Metro Office of Management and Budget

611 W. Jefferson St.

Louisville, KY 40202

(502) 574-3576

To submit an open records request:



MIKE O'CONNELL
JEFFERSON COUNTY ATTORNEY

531 Court Place, Suite 900
Louisville, KY 40202

(502) 574-6333
Fax (502) 574-5573

Julie Lott Hardesty
First Assistant

May 30, 2014

James Herrick
Assistant Attorney General
Attorney General's Office
700 Capitol Avenue
Frankfort, Kentucky 40601

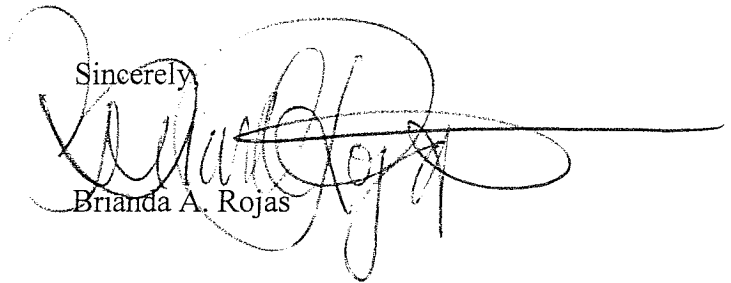
RE: Open Records Request appeal filed by Karen L. Dickson
Log Number: 201400231

Dear Mr. Herrick:

I am filing this response on behalf of Louisville Metro Animal Services (hereinafter "LMAS") to the Open Records Appeal filed by Ms. Karen L. Dickson. I have been informed by our client, LMAS, that the name of the veterinarian will be released to Ms. Dickson. LMAS is of the position that personal information related to the foster owner/owner of the dog remains exempt from public scrutiny pursuant to KRS 61.878(1)(a). The personal information, such as home address, of the foster owner/owner does not provide the public with vital information as to the purpose and function of the government thereby, remains protected as private information. LMAS Further continues to express its concerns over the release of the names of its employees as such release may cause possible retaliatory actions by Ms. Dickson. Although the LMAS understands that the names of its public employees do not enjoy protection from public scrutiny, concerns have been raised as to possible risks of retaliation against LMAS and its employees by Ms. Dickson upon the release of information identifying the public employees that cared for the dog in question. As previously stated and in accordance with the KRS 61.872, LMAS will provide Ms. Dickson with the name of the veterinarian previously withheld from public release. The remaining redactions complained of by Ms. Dickson in her appeal were explained to her by our client that such redactions were made pursuant to KRS 61.878(4), requiring the separation of the excepted material from release by statute and/or are non-responsive to her specific request as such information does not pertain to the dog which she specified, while providing Ms. Dickson with the public document that she is entitled to by the Open Records Act.

Based on the above information provided by our client, LMAS respectfully requests that you find the issues related to this Appeal moot per 40 KAR 1.030, Section 6, and further consideration unwarranted.

Sincerely,

A handwritten signature in black ink, appearing to read 'Brianda A. Rojas', with a long horizontal flourish extending to the right.

Brianda A. Rojas

BAR/rbj

Cc: Karen L. Dickson

Dee Allen

May 13, 2014

Office of Attorney General
700 Capitol Avenue
Suite 118
Frankfort, KY 40601

Dear Mr. Conway,

On April 4, 2014, I filled out an Open Records request for some documents from Metro Animal Services in Louisville KY. I received 3 documents in response to my request, one with so many redactions it was difficult to read, and emails with almost all information redacted. Previous requests of kennel cards for animals had insignificant data such as rabies tag numbers redacted. Regarding the redactions, Dee Allen, the Open Records Coordinator for Metro Government, stated that the copies "contain redactions in protection of personal privacy/safety consistent with KRS 61.878 (1)(a) as well as items that are nonresponsive to your request as noted on the record."

I responded by stating that I didn't see how providing the name of an employee (the foster/owner of the dog in question and the LMAS employee), or veterinarian, would divulge anything private or pose a "safety concern" and that her reliance on KRS 61.878 as a basis for the redactions was an overreach and not actually supported by the statute. She then emailed me stating that the legal department was looking into it and she would get back to me with their decision.

On April 24, 2014, she maintained that "we are indeed relying on preserving the public's interest in the application of KRS 61.878 (1)(a) by providing protection to the public employees which are believed to be in personal danger of retaliation or other harm if their identities are revealed. While we are aware of the OAG 12-149 outlining appropriate application of KRS 61.878 (1)(a), there have been subsequent judicial decisions related specifically to the protection of an individual's privacy/name that we believe support our position." She went on to state "the most compelling reason for our continued protection of the individual names is literally to protect these public employees, who were performing their assigned duties in accordance with their employment, from possible harm."

In another email correspondence with Ms. Allen, I asked her to cite the specific judicial decisions that relate to the protection of an individual's privacy/name but she failed to do so. Instead she provided me with a link to the website of the Kentucky Court of Justice.

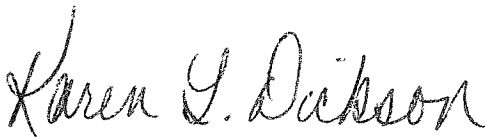
Mr. Conway, I am not an attorney, nor am I someone with a violent past. I am a 53 year old woman with no criminal background and there is no reason for Ms. Allen to think these employees would be in any danger from me or anyone else I might share this information with. Until 2011 I was an employee of this shelter so I'm certain that the management there knows I am not a threat to anyone. In addition, I'm not aware of

shelter employees being targets of retaliation anywhere in the U.S. (or abroad) so I'm not sure where this overriding concern for their safety comes from.

I believe this is nothing more than a stonewalling attempt to protect the upper management of LMAS, who were aware of the medical condition of this dog, collected money on its behalf (for a leg amputation), used the money for another purpose, and had the dog euthanized when it self mutilated the leg after several months of going without treatment. My purpose in obtaining the open records is not to threaten the welfare of these individuals, but to confirm the identities of these upper management employees and Ms. Allen is misapplying KRS 61.878 (1)(a) in an attempt to protect them, not from physical danger, but a possible criminal complaint for the misappropriation of funds and animal abuse.

I have enclosed copies of my correspondence with Ms. Allen, along with copies of the redacted material. I would appreciate it if you would review whether Ms. Allen has properly relied on KRS 61.878 (1)(a) by redacting pertinent information relating to my request, or if she has misinterpreted the purpose and intent of the statute.

Sincerely,

A handwritten signature in cursive script that reads "Karen L. Dickson". The signature is written in dark ink and is positioned above the printed name.

Karen L. Dickson



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

JACK CONWAY
ATTORNEY GENERAL

CAPITOL BUILDING, SUITE 118
700 CAPITAL AVENUE
FRANKFORT, KENTUCKY 40601
(502) 696-5300
FAX: (502) 564-2894

14-ORD-123

June 16, 2014

In re: Karen L. Dickson/Louisville Metro Animal Services

Summary: Louisville Metro Animal Services properly redacted home addresses and birth dates of individuals on the basis of personal privacy under KRS 61.878(1)(a).

Open Records Decision

The question presented in this appeal is whether Louisville Metro Animal Services (LMAS) violated the Open Records Act in the disposition of Karen Dickson's request dated April 4, 2014, for copies of records relating to a certain dog formerly in the care of LMAS. For the reasons stated below, we find no violation of the Act.

Ms. Dickson's April 4 request stated as follows:

I am requesting any and all email correspondence, text messages, medical records, Chameleon records (including comments) regarding a dog named Sadie, ID number A485350 from the time period of 2-3-13 to 4-4-14.

Medical records should include who provided treatment if not provided by LMAS.

I am also requesting information regarding donations made to this animal[']s care, including the amount of donation, donors names



and amount of donation, who collected the donation, where and how much of the donations were spent on the animal[']s medical care.

This request was submitted via an e-mail form, which was evidently accepted by LMAS. On April 9, 2014, Open Records Coordinator Dee Allen replied:

In response to your request below, Louisville Metro Animal Services has identified and provided copies of all responsive records meeting your request description. The copies contain redactions in protection of personal privacy/safety consistent with KRS 61.878(1)(a) as well as items that are nonresponsive to your request as noted on the record. This completes your request.

At that time, the redacted information included not only home addresses and birth dates of private individuals, but also the names of LMAS employees, which Ms. Allen, in subsequent correspondence, claimed had been removed in the interest of "providing protection to the public employees which [sic] are believed to be in personal danger of retaliation or other harm if their identities are revealed." Ms. Dickson appealed to the Attorney General on May 13, 2014, contending that no basis had been established for deleting the names of public employees.

On June 4, 2014, Ms. Dickson reported that Ms. Allen had sent her "a generally unredacted set of the documents" which contained the missing names of public employees. She alleged, however, that she believed additional e-mails existed which had not been provided to her.

On June 9, 2014, Assistant Jefferson County Attorney Brianda A. Rojas confirmed that the only remaining redactions were "private home addresses, birthdates, and non-responsive information not associated or meeting the specifics of [Ms. Dickson's] request." She insisted that LMAS had provided "all responsive records identified and within the custody of the agency meeting Dickson's vague request, as interpreted by the management of the agency to be constituted of records held by those agency employees who could reasonably have been expected to hold such records."

KRS 61.878(1)(a) excludes from the application of the Open Records Act “[p]ublic records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.” This language “reflects a public interest in privacy, acknowledging that personal privacy is of legitimate concern and worthy of protection from invasion by unwarranted public scrutiny,” while the Open Records Act as a whole “exhibits a general bias favoring disclosure” and places the burden of establishing an exemption on the public agency. *Kentucky Board of Examiners of Psychologists v. Courier-Journal and Louisville Times Co.*, 826 S.W.2d 324, 327 (Ky. 1992). This necessitates a “comparative weighing of the antagonistic interests. Necessarily, the circumstances of a particular case will affect the balance. [T]he question of whether an invasion of privacy is ‘clearly unwarranted’ is intrinsically situational, and can only be determined within a specific context.” *Id.* at 327-28.

The public interest in open records has been analyzed as follows by the Kentucky Court of Appeals:

At its most basic level, the purpose of disclosure focuses on the citizens’ right to be informed as to what their government is doing. That purpose is not fostered however by disclosure of information about private citizens that is accumulated in various government files that reveals little or nothing about an agency’s own conduct.

Zink v. Com., Dept. of Workers’ Claims, Labor Cabinet, 902 S.W.2d 825, 829 (Ky. App. 1994). In *Zink*, the privacy interest of injured workers in their home addresses, telephone numbers, and Social Security numbers was found to outweigh the interest of an attorney seeking the information for marketing purposes where disclosure “would do little to further the citizens’ right to know what their government is doing and would not in any real way subject agency action to public scrutiny.” 902 S.W.2d at 829.

In *Kentucky New Era, Inc. v. City of Hopkinsville*, 415 S.W.3d 76, 83 (2013), the Supreme Court of Kentucky found that “[p]rivate citizens ... have a compelling interest in the privacy of law enforcement records pertaining to them.” “To implicate an individual’s privacy interest, ... the adverse repercussions of public disclosure need not be severe.” *Id.* On the other hand,

“any private interest the requester may have in the information is irrelevant.” *Id.* at 85. In *Kentucky New Era*, the newspaper was seeking address, telephone, Social Security numbers, and other identifying information on crime victims, witnesses, and uncharged suspects, purportedly in the interest of assuring the public that the police department was “providing equal protection to all parts of the community.” *Id.* at 86. While the Court found this interest legitimate, it did not agree “that that interest can only be vindicated by sacrificing the privacy interests of all those with whom the police come in contact.” *Id.* at 86-87. Therefore, the identifying information was properly withheld.

We find nothing to distinguish this case from the result in the *Kentucky New Era* case. The addresses and birth dates of private individuals have no manifest bearing on how LMAC performed its public duties, and therefore this identifying information was properly subjected to categorical redaction under KRS 61.878(1)(a).

As for the alleged existence of other responsive records, we have nothing concrete to suggest that the agency withheld any responsive materials that could be located pursuant to a diligent search by persons reasonably likely to possess such records. A public agency cannot afford a requester access to a record that it does not have or that does not exist. 99-ORD-98. The agency discharges its duty under the Open Records Act by affirmatively so stating. 99-ORD-150. In general, it is not our duty to investigate in order to locate documents which the public agency states do not exist.¹ We therefore find no violation of the Open Records Act in the ultimate disposition of Ms. Dickson’s request.

A party aggrieved by this decision may appeal it by initiating action in the appropriate circuit court pursuant to KRS 61.880(5) and KRS 61.882. Pursuant to KRS 61.880(3), the Attorney General should be notified of any action in circuit court, but should not be named as a party in that action or in any subsequent proceeding.

¹ See also *Bowling v. Lexington-Fayette Urban County Gov’t*, 172 S.W.2d 333, 341 n.4 (Ky. 2005) (complaining party has the burden of production in litigation over the existence of a public record).

Jack Conway
Attorney General



James M. Herrick

Assistant Attorney General

#231

Distributed to:

Ms. Karen L. Dickson

Ms. Dee Allen

Brianda A. Rojas, Esq.



MIKE O'CONNELL
JEFFERSON COUNTY ATTORNEY

531 Court Place, Suite 900
Louisville, KY 40202

(502) 574-6333
Fax (502) 574-5573

Julie Lott Hardesty
First Assistant

June 9, 2014

James Herrick
Assistant Attorney General
Attorney General's Office
700 Capitol Avenue
Frankfort, Kentucky 40601

RE: Open Records Request appeal filed by Karen L. Dickson
Log Number: 201400231

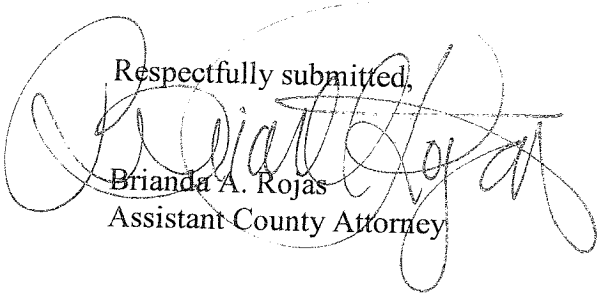
Dear Mr. Herrick:

I am filing this sur reply on behalf of Louisville Metro Animal Services (hereinafter "LMAS") to the reply filed by Ms. Karen L. Dickson received by our office on June 6, 2014. After review of Ms. Dickson's reply, LMAS is of the position that all responsive records identified and within the custody of the agency meeting Dickson's vague request, as interpreted by the management of the agency to be constituted of records held by those agency employees who could reasonably have been expected to hold such records, have been provided to her. As discussed in our client's timely response submitted on May 30, 2014, such record copies provided to Ms. Dickson contained redactions consisting of information claimed exempt as private in nature in accordance with KRS 61.878(4) and KRS 61.878(1)(a).¹ Such information that LMAS claimed to be personal in nature and withheld from release consist of private home addresses, birthdates, and non-responsive information not associated or meeting the specifics of her request. LMAS would like to reiterate that only responsive materials meeting the request in accordance with KRS 61.872 *et seq.* were provided to Ms. Dickson. LMAS cannot confirm nor deny the "attached copy" of documents referenced in Ms. Dickson's reply since LMAS was not provided said copies and therefore will deny the same. Upon providing Ms. Dickson with such responsive records, LMAS considers her request to be complete and is of the position the objections and claims referenced in her reply are without merit.

¹ On May 22, 2014, the Office of the Attorney General kindly granted a new submission date of May 30, 2014.

Based on the above information provided by our client, LMAS respectfully requests that you find the issues related to this Appeal moot per 40 KAR 1.030, Section 6, and further consideration unwarranted.

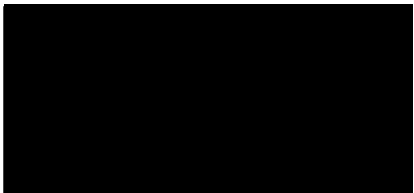
Respectfully submitted,


Brianda A. Rojas

Assistant County Attorney

BAR/rbj

Cc: Karen Dickson
Dee Allen



June 4, 2014

James Herrick
Office of Attorney General
700 Capitol Avenue
Suite 118
Frankfort, KY 40601

Log Number 201400231

Dear Mr. Herrick,

I have received a copy of the correspondence between the Attorney General's Office and the Jefferson County Attorney (representing Metro Animal Services) in regards to my Open Records request. Metro Animal Services (MAS) was ordered to respond to the appeal by May 23, 2014, but instead, MAS filed the response on or about May 30, 2014. For this reason, I request that the response filed on behalf of Metro Animal Services be stricken.

During this period, Dee Allen, Open Records Coordinator for Metro Government, emailed a generally unredated set of the documents (copy attached) and has therefore waived its previous position.

However, based on information I have obtained from credible sources, the emails which MAS has now disclosed are incomplete. I therefore ask that the Attorney General strike the response of MAS and order MAS to provide all emails to me as originally requested.

Respectfully,

Karen L. Dickson

Cc: Brianda A. Rojas
Dee Allen



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Julie Lott Hardesty
First Assistant

June 12, 2014

James Herrick
Assistant Attorney General
Attorney General's Office
700 Capitol Avenue
Frankfort, Kentucky 40601

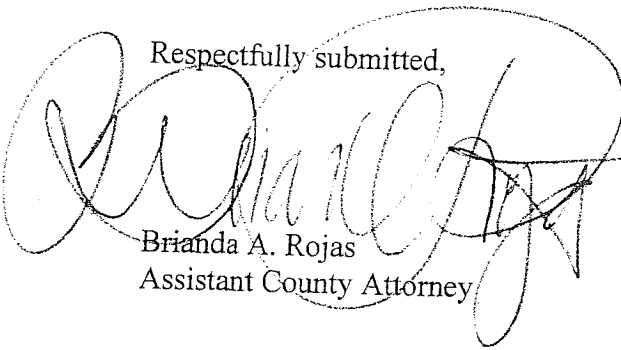
RE: Open Records Request appeal filed by Karen L. Dickson
Log Number: 201400231

Dear Mr. Herrick:

Thank you for providing our client with the attachments referenced in the reply filed by Ms. Karen L. Dickson, received by our office on June 6, 2014. After review of the attached documents, it is the position of LMAS that the records reviewed reflect the most recent version of documents sent to Ms. Dickson in which names of individuals were also released.

Based on all of the forgoing responses and documents provided, LMAS respectfully renews its request that you find the issues related to this Appeal moot per 40 KAR 1.030, Section 6, and further consideration unwarranted.

Respectfully submitted,


Brianda A. Rojas
Assistant County Attorney

BAR/rbj

Cc: Karen Dickson
Dee Allen