

COMMONWEALTH OF KENTUCKY
FAYETTE CIRCUIT COURT
CIVIL ACTION NO. 17-CI-3489

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

PLAINTIFF

v.

ANSWER

MICHAEL MAHARREY

DEFENDANT

*** *Electronically Filed* ***

Comes, Michael Maharrey, by counsel, and for his Answer to Plaintiff's Complaint hereby states as follows.

FIRST DEFENSE

The Complaint fails to state a claim upon which relief may be granted, and all averments not specifically admitted herein are specifically denied.

SECOND DEFENSE

Subject to and without waiving any and all defenses available, including, but not limited to, those set forth herein, Defendant, Michael Maharrey, responds to the specific allegations contained in the Complaint numbered 1 through 16¹ as follows:

1. With respect to the allegations contained in Paragraph 1 of the Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore denies the allegations.
2. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 as it pertains to Lexington-Fayette Urban County Government, and therefore denies the allegations.

¹ Plaintiff's Complaint contains paragraphs that are not numbered sequentially, therefore for simplicity, Defendant references the paragraphs as they appear in the Complaint.

3. With respect to the allegations contained in Paragraph 3 of the Complaint, Defendant admits that he resides at 1300 Smoky Mountain Court, Lexington, Kentucky 40515.
4. Defendant admits that he filed an open records request to the Lexington Police Department on or about July 17, 2017 and that Exhibit 1 to Plaintiff's Complaint/Appeal contains the subject request. Defendant admits that the Lexington Police Department responded to his request on or about July 20, 2017 and that Exhibit 2 to the Complaint contains the Police Department's response to said request.
5. (Omitted in Complaint)
6. With respect to the allegations contained in Paragraph 6 of the Complaint, Defendant denies the allegations. The Police Department's response to the open records request (Exhibit 2) on July 20, 2017 speaks for itself.
7. With respect to the allegations contained in Paragraph 7 of the Complaint, Defendant denies the allegations. The content of the Police Department's response to the open records request (Exhibit 2) on July 20, 2017 speaks for itself.
8. Defendant admits that twelve pages of records were produced regarding body worn cameras.
9. Defendant admits that on or about August 8, 2017, he appealed the Police Department's denial to the Attorney General.
10. With respect to the allegations contained in Paragraph 10 of the Complaint, Defendant denies the allegations.
11. Defendant admits the allegations in Paragraph 11 of the Complaint.
12. Defendant denies the allegations contained in Paragraph 12 of the Complaint.

13. Defendant admits that there is no exemption in the Open Records Act for the withheld records in this case. Defendant denies all other allegations contained in Paragraph 13 of the Complaint.
14. Defendant admits there is no exemption in the Open Records Act for the withheld records in this case. Defendant denies all other allegations contained in Paragraph 14 of the Complaint.
15. The allegations in Paragraph 15 comprise legal conclusions to which no responsive pleading is required.
16. The allegations in Paragraph 16 comprise legal conclusions to which no responsive pleading is required.

WHEREFORE, the Defendant herein prays for relief, as follows:

1. For dismissal of the Complaint in its entirety;
2. For a determination that Defendant has willfully withheld public records in violation of KRS Chapter 61;
3. For an award of their attorneys' fees, costs, expenses incurred in the defense of this action and penalties pursuant to KRS 61.848; and
4. For any and all other relief to which they are properly entitled.

Respectfully submitted,

/s/ Clay A. Barkley
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CERTIFICATE OF SERVICE

This is to certify that on the 23rd day of October, 2017, a copy of the Answer above was filed via the Administrative Office of the Court's eFiling system, and served by U.S. mail, first-class postage prepaid, upon the following:

Michael R. Sanner
Lexington-Fayette Urban
County Government
Department of Law
200 East Main Street
Lexington, Kentucky 40207

/s/ Clay A. Barkley