

BEFORE THE MISSISSIPPI ETHICS COMMISSION

KENNETH E. AASAND

COMPLAINANT

VS.

CASE NO. R-16-046

CITY OF STARKVILLE

RESPONDENT

FINAL ORDER

This matter came before the Mississippi Ethics Commission through a Public Records Complaint filed by Kenneth E. Aasand (hereinafter “Aasand”) against the City of Starkville (hereinafter “the City”), who filed a response by and through its attorney. The Ethics Commission has jurisdiction over this matter pursuant to Section 25-61-13, Miss. Code of 1972. In accordance with Rule 5.6, Rules of the Mississippi Ethics Commission, the hearing officer prepared and presented a Preliminary Report and Recommendation to the Ethics Commission at its regular meeting on January 6, 2017. The respondent did not object to the Preliminary Report and Recommendation and has thereby waived a right to a hearing on the merits. Accordingly, the hearing officer enters this Final Order in accordance with Rule 5.6, Rules of the Mississippi Ethics Commission.

I. FINDINGS OF FACT

1.1 On October 21, 2016, Aasand submitted a public records request to the City for “copies of the Starkville Municipal Airport board routine monthly meeting minutes for the months of February, March, April, May, June, July and August 2016.” Aasand allegedly never received a response from the City concerning his request and filed this complaint on November 4, 2016. Commission staff intervened and assisted Aasand in obtaining minutes responsive to the public records request.¹ Mr. Aasand requested that the case be presented to the Ethics Commission despite the fact that he received the records he requested. The City explained that a deputy clerk failed to notify the city clerk of Aasand’s public record request when he submitted it, which resulted in the delay.

II. CONCLUSIONS OF LAW

2.1 Section 25-61-5(1)(a), Miss. Code of 1972, of the Public Records Act of 1983 mandates that “[n]o public body shall adopt procedures which will authorize the public body to produce or deny production of a public record later than seven (7) working days from the date of the receipt of the request for the production of the record.” Section 25-61-5(1)(b) allows up to fourteen working days for production of public records when the public body provides a specific, written explanation why the records cannot be produced within seven days. The City failed to produce the requested records within the statutory seven-day or fourteen-day periods as mandated by law.

¹ Aasand’s complaint also references a public records request he submitted in December 2015 by which he sought minutes from the December 2015 airport board meeting. If Aasand has not received minutes concerning that public records request, then he should communicate that fact to the city clerk, and the clerk should timely produce any minutes which are responsive to that request.

IT IS HEREBY ORDERED as follows:

1. The Ethics Commission finds the City of Starkville violated Section 25-61-5(1)(a), Miss. Code of 1972, by failing to timely respond to Aasand's public records request.
2. The Ethics Commission orders the City of Starkville to strictly comply with Section 25-61-5, Miss. Code of 1972, of the Public Records Act.

SUBMITTED this the 30th day of January, 2017.

CHRIS GRAHAM, Hearing Officer
Mississippi Ethics Commission