



THE ATTORNEY GENERAL  
OF TEXAS

JIM MATTON  
ATTORNEY GENERAL

February 7, 1990

Mr. W. S. McBeath  
Administrator  
Texas Alcoholic Beverage Commission  
P.O. Box 13127, Capitol Station  
Austin, Texas 78711

Dear Mr. McBeath:

You have received a request under the Open Records Act for copies of the liquor license applications of Air Terminal Services of Houston for the two Houston airports. By letter of April 6, 1989, you submitted this matter to us for a decision under the Open Records Act. We have designated your letter as ID# 6102; this is OR90-050.

You believe that much of the requested information is excepted from public disclosure by section 5.48 of the Texas Alcoholic Beverage Code, as incorporated by section 3(a)(1) of article 6252-17a, V.T.C.S., the Texas Open Records Act. Section 5.48 of the Alcoholic Beverage Code provides as follows:

(a) "Private records," as used in this section, means all records of a permittee, licensee, or other person other than the name, proposed location, and type of permit or license sought in an application for an original or renewal permit or license, or in a periodic report relating to the importation, distribution, or sale of alcoholic beverages required by the commission to be regularly filed by a permittee or licensee.

(b) The private records of a permittee, licensee, or other person that are required or obtained by the commission or its agents, in connection with an investigation or otherwise, are privileged unless introduced in evidence in a hearing before the commission or before a court in this state or the United States.

Alco. Bev. Code § 5.48 (emphasis added).

This provision has been interpreted in prior decisions of this office under the Texas Open Records Act. See Attorney General Opinion MW-464 (1982); Open Records Decision Nos. 186 (1978); 62 (1974). The requestor has asked for "documentation of the ownership of Air Terminal Services of Houston, including stock ownership," and you are uncertain as to whether that information is confidential under section 5.48 of the Alcoholic Beverages Code.

The records of a licensee that are public consist of the "name, proposed location, and type of permit or license sought in an application for an original or renewal permit or license." Open Records Decision No. 186 stated that this provision excludes from the category of "private records" the name of a permittee of licensee. The licensed business involved in Open Records Decision No. 186 was owned by an individual, not a corporation. Thus, that decision did not address the question of which names are public when the licensed business is owned by a corporation. However, section 11.39 of the Alcoholic Beverage Code gives us some assistance in construing "names" as it appears in section 5.48.

Section 11.39 requires an applicant for a permit to give notice of the application by publication in a newspaper. The notice is required to include the following information:

- (1) the type of permit to be applied for;
- (2) the exact location of the place of business for which the permit is sought;
- (3) the names of each owner of the business and, if the business is operated under a assumed name, the trade name together with the names of all owners; and
- (4) if the applicant is a corporation, the names and titles of all officers.

Alco. Bev. Code § 11.39(b) (emphasis added). The relevant name in this provision is the name of the owner of the business. A corporation is a legal entity distinct from its members, and ownership of corporate assets is vested in the corporation, not in the shareholders. 15 Tex. Jur. 3d Corporations § 147 at 301, and authorities cited. Thus, the corporation is the owner of the business, and it is the name

of the corporation, not the names of the shareholders, that must be published in compliance with section 11.39(b) of the Alcoholic Beverage Code. Where the applicant is a corporation, the relevant information to be published is the names and titles of corporate officers.

The same distinctions apply in construing section 5.48 of the code. When the applicant for a permit or license is a corporation, that provision makes public the name of the corporation, but not the names of stockholders.

You ask whether the identities of the officers and directors of the corporate applicant are public. Open Records Decision No. 62 determined that certain items of information in the application were made public by section 5.48 of the Alcoholic Beverage Code. An examination of the application form at issue in Open Records Decision No. 62 shows that the corporate name and the name, title, and home address of each officer was held to be public by that decision. Accordingly, the names of officers are public. The names of the directors and the information about capitalization, investment, and financing are not made public by section 5.48 of the Alcoholic Beverage Code.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR90-050.

Yours very truly,



Susan Garrison  
Assistant Attorney General  
Opinion Committee

SG/le

Ref.: ID# 6102

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