



THE ATTORNEY GENERAL
OF TEXAS

JUDITH MUMFORD
ATTORNEY GENERAL

February 26, 1990

Charles P. Turco, Ph.D.
Chairman, Pilot Commission for the
Sabine Bar, Pass and Tributaries
113 Briggs Street
Beaumont, Texas 77707

OR90-081

Dear Dr. Turco:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 7709.

The Texas State Pilot Commission for Sabine Bar, Pass and Tributaries received an open records request for financial statements and income and expense figures about pilots in the possession of the commission. A pilot commission is appointed under the statute applicable to the particular navigation district. See V.T.C.S. arts. 8248, 8264, 8269 (Water Auxiliary Laws). The commission therefore constitutes a governmental body as defined by section 2(1)(A) of the Open Records Act, article 6252-17a, V.T.C.S. The financial information requested was furnished by the pilots to the commission to support requests for changes in pilotage rates. The information at issue includes ship traffic analyses and income distribution statements prepared by the pilots. In making its request for an attorney general opinion, the commission cited no exception to disclosure under the Open Records Act of the records it possesses. Section 7(c) of the act provides that in cases in which a third party's privacy or property interests may be implicated, any person may submit in writing to the attorney general the reasons for withholding or releasing the information. This office received communications from both the pilots' association and the requestor of the information. The pilots' association, whose privacy or property interests might conceivably be implicated, failed to raise an exception under the Open Records Act to disclosure of the information. The act does not require this office to raise and consider exceptions not raised by the governmental body or third parties whose interests may be implicated. Generally, if an exception is not raised, it is waived unless the information is deemed confidential under the act. See Attorney General Opinion JM-672 (1987).

However, we have reviewed the documents you have submitted and have considered whether the information is protected by law from disclosure. We have found no law which deems the information at issue confidential. The case cited by the pilots' association in support of withholding the information, West Gulf Maritime Ass'n v. Sabine Pilots Ass'n, 617 S.W.2d 744 (Tex. Civ. App. - Beaumont 1981), did not address the confidentiality of the kind of information that is the subject of this request. A previous decision of this office, Open Records Decision No. 203 (1978) (copy enclosed) addressed similar information involving financial and usage reports submitted to a governmental body for taxicab rate-setting. That decision resolves your request. For this reason, you must release the information.

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 OR90-081.

Yours very truly,

David Newton

David A. Newton
Assistant Attorney General
Opinion Committee

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Ref.: ID# 7709, 7488, 7602

Enclosure: Open Records Decision No. 203
Documents Sent

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