



Office of the Attorney General
State of Texas

July 31, 1992

DAN MORALES
ATTORNEY GENERAL

Ms. Jeannene Fox
Acting Administrator
Texas Alcoholic Beverage Commission
P. O. Box 13127, Capitol Station
Austin, Texas 78711-3127

OR92-436

Dear Ms. Fox:

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# 14337.

You have received a request for information relating to several organizations licensed by the Texas Alcoholic Beverage Commission (the "commission") to conduct bingo games. Specifically, the requestor seeks the following information for seven licensed bingo operators:

1. Date of bingo license application for each organization.
2. Date of bingo license final approval for each organization.
3. Name of TABC officer who made the final approval on the bingo license.
4. List of any memos or additional information request letters that were sent to the organizations on completing their bingo applications;
5. License fees & bond requirements for each organization.
6. Any and all letters on cited violations for the past 24 months for all organizations in Bexar County for each organization listed.
7. Any & all investigations & inclusive undercover assignments to all bingo operations in Bexar County (all the licensed organizations in Bexar County).
8. Name of officer requesting all undercover assignments in all of Bexar County for the past 24 months.

You advise us that some of the requested information has been or will be made available to the requestor.¹ You claim, however, that the remainder of the requested information is excepted from required public disclosure by sections 3(a)(1), 3(a)(3), 3(a)(7), 3(a)(8), and 3(a)(11) of the Open Records Act.

Previous open records decisions issued by this office resolve your request. Section 3(a)(3) excepts

information relating to litigation of a criminal or civil nature and settlement negotiations, to which the state or political subdivision is, or may be, a party, or to which an officer or employee of the state or political subdivision, as a consequence of his office or employment, is or may be a party, that the attorney general or the respective attorneys of the various political subdivisions has determined should be withheld from public inspection.

Section 3(a)(3) applies only when litigation in a specific matter is pending or reasonably anticipated and only to information clearly relevant to that litigation. Open Records Decision No. 551 (1990).

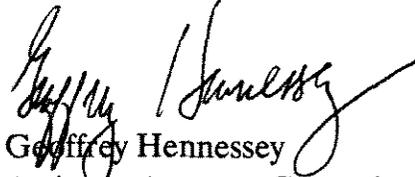
The attorney representing the commission advises us that the requested information relates to a civil suit filed against the commission, *Eddie Garcia vs. Texas Alcoholic Beverage Commission, W.S. McBeath and Joe Payne*, (Cause No. 91-CZ-05178, 224th Judicial Dist., Bexar County). We have examined the information submitted to us for review and agree with your attorney's determination that it relates to the pending litigation. Accordingly, except for information already made available through discovery or other means, the information submitted to us for review may be excepted from required public disclosure by section 3(a)(3) of the Open Records Act. As we resolve this matter under section 3(a)(3), we need not

¹Section 28 of the Bingo Enabling Act, article 179d, V.T.C.S., provides that "[a]ll applications, returns, reports, statements, and audits submitted to or conducted by the commission and the governing body are available for public inspection." The attorney representing the commission has advised us that information made public by section 28 has been or will be made available to the requestor. Accordingly, we need not address its availability under the Open Records Act at this time. See Open Records Decision No. 525 (1989) (the Open Records Act's exceptions do not apply to information expressly made public by other statutes).

address the applicability of sections 3(a)(1), 3(a)(7), 3(a)(8), and 3(a)(11) at this time.

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 OR92-436.

Yours very truly,


Geoffrey Hennessey
Assistant Attorney General
Opinion Committee

GH/GCK/lmm

Ref.: ID# 14337
ID# 14587

cc: Mr. Paul Rodriguez
President
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