



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 21, 2010

Mr. Lou Bright
General Counsel
Texas Alcoholic Beverage Commission
P.O. Box 13127
Austin, Texas 78711-3127

OR2010-00990

Dear Mr. Bright:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 367617.

The Texas Alcoholic Beverage Commission (the "commission") received a request for information regarding the stockholders of a specified establishment. You claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note a portion of the submitted information is not responsive to the instant request because it does not pertain to the stockholders at issue or their percentage of ownership in the specified establishment. This decision does not address the public availability of the non-responsive information, and the commission need not release that information in response to this request.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information made confidential by other statutes. 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. The term "privileged" in this statute has been construed to mean "confidential" for purposes of the Act. Attorney General Opinion JM-1235 at 2 (1990); Open Records Decision Nos. 186 (1978), 62 (1974).

You state that the information at issue is part of an application for a license from the commission. You state that "none of the records in question have been submitted as evidence in an administrative hearing or otherwise." Based on your representations and our review, we agree the information at issue consists of "private records" that are privileged under section 5.48 of the Alcoholic Beverage Code. Accordingly, the commission must withhold this information pursuant to section 552.101 of the Government Code in conjunction with section 5.48 of the Alcoholic Beverage Code.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



James McGuire
Assistant Attorney General
Open Records Division

JM/cc

Ref: ID# 367617

Enc. Submitted documents

c: Requestor
(w/o enclosures)