



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 28, 2012

Mr. Gary Grief
Executive Director
Texas Lottery Commission
P.O. Box 16630
Austin, Texas 78761-6630

OR2012-15516

Dear Mr. Grief:

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# 466322 (TLC File # L-15960).

The Texas Lottery Commission (the "commission") received a request for the following information: (1) the claim form(s) submitted by either of two named individuals and a specified ticket, (2) a specified investigative report conducted by a named individual, (3) a specified affidavit, and (4) and all filings submitted by the county prosecutor on behalf of the commission for the indictment and prosecution/settlement of a specified case. You state the commission does not possess any documents responsive to items three or four of the request.¹ You state the commission has released the information requested in item one of the request. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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

¹The Act does not require a governmental body to release information that did not exist when it received a request or to create responsive information. See *Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

Code § 552.101. This section encompasses information protected by other statutes. Section 466.022 of the Government Code provides, in part:

(b) In addition to commission records excepted from disclosure under Chapter 552, the following information is confidential and is exempt from disclosure:

...

(3) the street address and telephone number of a prize winner, if the prize winner has not consented to the release of the information.

Id. § 466.022(b)(3). You have marked the street addresses of the individuals you state are winners of lottery prizes. You assert this information is confidential under section 466.022(b)(3). You further state the individuals have not consented to the release of their street address or telephone number. Based on your representations and our review, we conclude the commission must withhold the street addresses of the prize winners you have marked under section 552.101 in conjunction with section 466.022(b)(3) of the Government Code.

Section 552.108(a)(2) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]” *Id.* § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). This office has determined the commission is a law enforcement agency. *See id.* §§ 466.019 (commission is authorized to enforce violations of lottery laws), .020 (commission is authorized to maintain department of security staffed by commissioned peace officers or investigators). You state that the submitted information pertains to a criminal investigation by the commission’s enforcement division that concluded in a result other than conviction or deferred adjudication. Thus, we conclude the commission may withhold the remaining information you have marked under section 552.108(a)(2) of the Government Code.²

In summary, the commission must withhold the street addresses of the prize winners you have marked under section 552.101 of the Government Code in conjunction with

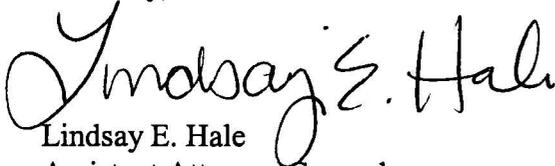
²As our ruling is dispositive, we need not address your remaining argument under section 552.108(b)(2) of the Government Code for this information.

section 466.022(b)(3) of the Government Code. The commission may withhold the remaining information you have marked under section 552.108(a)(2) of the Government Code. The commission must release the remaining information.

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,



Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/ag

Ref: ID# 466322

Enc. Submitted documents

c: Requestor
(w/o enclosures)