



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 13, 1993

Mr. David J. Freeman
Executive Secretary
Texas Racing Commission
P.O. Box 12080
Austin, Texas 78711-2080

Letter Opinion No. 93-29

Re: Whether an individual who was unassociated with a racetrack licensee at the time the racetrack was licensed or was operating may request reinstatement of the racetrack license under section 6.19 of the Texas Racing Act, V.T.C.S. article 179e (ID# 18204)

Dear Mr. Freeman:

You have asked this office to clarify and reconsider Letter Opinion No. 92-78 (1992), which stated that an individual who was unassociated with a racetrack licensee at the time the racetrack was licensed or was operating may request reinstatement of the racetrack license under section 6.19 of the Texas Racing Act (the "act"), V.T.C.S. article 179e. This office also stated that a racetrack licensee that was the subject of a voluntary bankruptcy proceeding is eligible to have its license reinstated under section 6.19, but that section 6.19(d)(2) authorized the Texas Racing Commission (the "commission") to revoke the license once the license has been reinstated.

In reference to the first issue Letter Opinion No. 92-78 addressed, you state that the opinion appears to require reinstatement of a racetrack's license "without any background investigation or commission approval of the new investors" in the racetrack. You argue that this conclusion is incorrect because the act, when read as a whole, evidences a legislative intent that all persons, other than spectators, involved in the ownership and operation of a racetrack be investigated. *See, e.g.*, V.T.C.S. art. 179e, §§ 5.03(a), (b); 5.04; 6.03(2); 6.031. You also cite section 6.13(b) of the act, which expressly requires that a corporate licensee receive approval from the commission prior to each transaction involving an acquisition or transfer of a pecuniary interest in the licensee. *Id.* § 6.13(b).

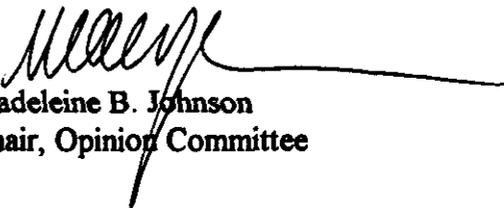
In our opinion, it is not unreasonable to read section 6.19 of the act to require the commission to investigate any individual who requests reinstatement of a racetrack license under section 6.19 and who was unassociated with a racetrack licensee at the time the racetrack was licensed or was operating. To the extent that Letter Opinion Nos. 92-78 and 92-001 suggest otherwise, they should not be followed.

In reference to the second issue Letter Opinion No. 92-78 addressed, you request guidance regarding a possible conflict with federal bankruptcy law. This office normally does not address issues of federal bankruptcy law in an attorney general opinion. For further assistance on this question, we suggest that you direct your concerns to the assistant attorney general assigned to your agency.

S U M M A R Y

It is not unreasonable to read section 6.19 of the Texas Racing Act, V.T.C.S. article 179e, to require the Texas Racing Commission to investigate any individual who requests reinstatement of a racetrack license under section 6.19 and who was unassociated with a racetrack licensee at the time the racetrack was licensed or was operating.

Yours very truly,


Madeleine B. Johnson
Chair, Opinion Committee