



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 19, 2016

Mr. Mark Fenner
General Counsel
Texas Racing Commission
P.O. Box 12080
Austin, Texas 78711-2080

OR2016-23510

Dear Mr. Fenner:

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# 631275.

The Texas Racing Commission (the "commission") received a request for the number of greyhound drug samples that tested positive for prohibited substances, as well as identification of the substances, for a specified time period. You claim 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 representative sample of information.¹

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. Section 552.101 encompasses section 2.15 of the Texas Racing Act, which regulates horse racing and greyhound racing in Texas. Section 2.15 provides in part:

- (a) All records of the commission that are not made confidential by other law are open to inspection by the public during regular office hours. All

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

applications for a license under [the Texas Racing] Act shall be maintained by the commission and shall be available for public inspection during regular office hours.

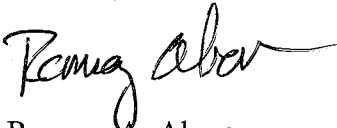
(b) The contents of the investigatory files of the commission are not public records and are confidential except in a criminal proceeding, in a hearing conducted by the commission, on court order, or with the consent of the party being investigated.

V.T.C.S. art. 179e, § 2.15(a), (b). Section 2.15(b) makes investigative files of the commission confidential. *See* Open Records Decision Nos. 567 (1990), 548 (1990). You state the submitted information was obtained through the commission's investigative process. We understand none of the exceptions to section 2.15 apply in this instance. Accordingly, we conclude the commission must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 2.15 of the Texas Racing Act.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/bw

Ref: ID# 631275

Enc. Submitted documents

c: Requestor
(w/o enclosures)