



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 16, 2020

Ms. Raika Rowe
Public Information Coordinator
Office of the General Counsel
Texas Alcoholic Beverage Commission
P.O. Box 13127
Austin, Texas 78711-3127

OR2020-16115

Dear Ms. Rowe:

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# 834743 (ORR# R002540-041120).

The Texas Alcoholic Beverage Commission ("TABC") received a request for specified license applications. TABC claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception 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 Code § 552.101. This section encompasses section 5.48 of the Alcoholic Beverage Code, which 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 TABC 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 TABC or its agents, in connection with an investigation or otherwise, are privileged unless introduced in evidence in a hearing before TABC or before a court in this state or the United States.

Alco. Bev. Code § 5.48. This office has construed the term “privileged” in this statute to mean “confidential” for purposes of the Act. Attorney General Opinion JM-1235 at 2 (1990); Open Records Decision Nos. 186 (1978), 62 (1974). Thus, section 5.48 makes confidential any records required or obtained by TABC, with the exception of “the name, proposed location, and type of permit or license sought in an application for an original or renewal permit or license” and “a periodic report relating to the importation, distribution, or sale of alcoholic beverages required by TABC to be regularly filed by a permittee or licensee.” Alco. Bev. Code § 5.48.

TABC states the submitted information consists of permit application and renewal records that a permittee submitted. TABC also states this information has not been introduced in evidence in a hearing before it or a court. Based on these representations and our review, we find the submitted information consists of private records under section 5.48 of the Alcoholic Beverage Code. Accordingly, with the exception of the name, proposed location, and type of permit sought in the applications at issue, which TABC must release, TABC must withhold the submitted information under 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/be

Ref: ID# 834743

Enc. Submitted documents

c: Requestor
(w/o enclosures)