



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 7, 2022

Ms. Virginia S. Fields  
General Counsel  
Texas Racing Commission  
8505 Cross Park Drive, Suite 110  
Austin, Texas 78754

OR2022-37989

Dear Ms. Fields:

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# 984559 (ORR FY23-476-TPIA-0001).

The Texas Racing Commission (the "commission") received a request for information pertaining to e-wagering plans. You state the commission has released some information. You claim the submitted information is not subject to the Act. Additionally, you state release of portions of the submitted information may implicate the proprietary interests of Sportech Racing, LLC ("Sportech"). Accordingly, you state, and provide documentation showing, the commission notified the interested third party of the request for information and of its right to submit arguments to this office as to why the information at issue should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have considered the submitted arguments and reviewed the submitted information.

The Texas Racing Act, sections 2021.001 through 2035.106 of the Occupations Code, provides for "the strict regulation of horse racing and greyhound racing and the control of pari-mutuel wagering in connection with that racing." Occ. Code § 2021.002. Section 2025.054(a) provides:

(a) The commission shall require each applicant for an original racetrack license to submit with the application for inspection and review by the commission a copy of each management, concession, and totalisator contract associated with the proposed license at the proposed location in which the applicant has an interest.

*Id.* § 2025.054(a). Section 2025.055 provides:

Documents submitted to the commission under Sections 2025.051-2025.054 by an applicant are subject to discovery in a suit brought under this subtitle but are not public records and are not subject to [the Act].

*Id.* § 2025.055. Section 2026.151(a) provides, in part:

(a) All concession, management, and totalisator contracts submitted by an applicant under Section 2025.054 must have the prior approval of the commission.

*Id.* § 2026.151(a). Section 2026.152(a) provides, in part:

(a) On receipt of a plan for the security of a racetrack, or a copy of a concession, management, or totalisator contract for review under Section 2026.151, the commission shall review the security plan or contract in an executive session. Documents submitted by an applicant to the commission under this section or Section 2025.052 or 2025.054 are subject to discovery in a suit brought under this subtitle but are not public records and are not subject to [the Act].

*Id.* § 2026.152(a). The commission indicates the submitted information was submitted for review to the commission pursuant to the regulatory scheme provided for by these sections of the Texas Racing Act. Based on your representations and our review, we conclude the submitted information is not subject to the Act and need not be released in response to the request for 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 <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,

Sarah E. Reese  
Attorney  
Open Records Division

SER/mo

Ref: ID# 984559

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Third Party  
(w/o enclosures)