



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 8, 2009

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

OR2009-09410

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# 348426.

The Texas Lottery Commission (the "commission") received a request for information pertaining to the commission's investigation of a specified company; specifically including a copy of a recorded interview and investigative report pertaining to the investigation.<sup>1</sup> You claim that the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We have also considered comments submitted by the requestor and by a representative of the company subject to the investigation. *See* Gov't Code § 552.304 (providing that interested parties may submit comments stating why information should or should not be released).

Section 552.108(a)(2) of the Government Code excepts from disclosure information held by a law enforcement agency or prosecutor concerning a criminal investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 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) (governmental body must provide comments explaining why exceptions raised should apply to information requested). We note that this office has determined that the commission is a law enforcement agency.

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<sup>1</sup>We note that the commission received clarification regarding this request. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information).

*See id.* §§ 466.019, .020. You have submitted an affidavit from the commission's enforcement director explaining that the submitted information pertains to a concluded criminal investigation that did not result in conviction or deferred adjudication. Therefore, based on your representations, and our review, we find that the commission may withhold the recorded interview and the information you have marked in the investigative report under section 552.108(a)(2).<sup>2</sup>

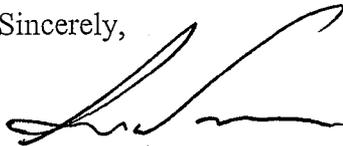
Section 552.137 of the Government Code requires a governmental body to withhold the e-mail address of a member of the general public, unless the individual to whom the e-mail address belongs has affirmatively consented to its public disclosure or the e-mail address is of a type specifically excluded by subsection (c). *See id.* § 552.137(a)-(c). The e-mail address you have marked is not a type specifically excluded by section 552.137(c). *See id.* § 552.137(c). Moreover, you inform us the commission has not received consent for the release of the e-mail address at issue. Therefore, the commission must withhold the e-mail address you have marked under section 552.137 of the Government Code.

In summary, the commission may withhold the recorded interview and the information you have marked in the investigative report under section 552.108(a)(2) of the Government Code. The e-mail address you have marked must be withheld under section 552.137 of the Government Code. The remaining information must be released.

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](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 at (512) 475-2497.

Sincerely,



Ana Carolina Vieira  
Assistant Attorney General  
Open Records Division

ACV/eb

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<sup>2</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

Ref: ID# 348426

Enc. Submitted documents

c: Requestor  
(w/o enclosures)