



**Office of the Attorney General
State of Texas**

DAN MORALES
ATTORNEY GENERAL

August 11, 1992

**Ms. Sandra C. Joseph
Disclosure Officer
Comptroller of Public Accounts
LBJ State Office Building
Austin, Texas 78774**

Letter Opinion No. 92-33

Re: Whether the addresses and telephone numbers of Texas lottery prize winners are deemed confidential by the Texas Lottery Act, V.T.C.S. article 179g, and related questions (ID# 16627)

Dear Ms. Joseph:

The Comptroller of Public Accounts asks whether certain information is subject to required public disclosure under the Texas Open Records Act, V.T.C.S. article 6252-17a. Your request was assigned ID# 16627.

Pursuant to the Texas Lottery Act, Acts 1991, 72d Leg., 1st C.S., ch. 6, § 2, now codified at V.T.C.S. article 179g, the Texas Comptroller of Public Accounts is responsible for supervision of the Texas lottery. Pursuant to the Open Records Act, the comptroller has received a request for disclosure of the addresses and telephone numbers of all Texas lottery winners who have won more than ten thousand dollars. The comptroller claims that this information is excepted from required public disclosure by the Open Records Act section 3(a)(1).

Open Records Act section 3(a) states that all information in the possession of a governmental body is public information, unless the information meets one of the act's enumerated exceptions. Section 3(a)(1) excepts from required public disclosure "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." Section 2.14(3) of the Lottery Act expressly states: "[T]he street address and telephone number of a prize winner, if the prize winner has not consented to the release of the information[,]" "is confidential and is exempt from disclosure under the open records law [V.T.C.S. article 6252-17a]." Therefore, unless a lottery prize winner has consented to release of his address and telephone number, the information is deemed confidential by the Lottery Act, article 179g,

section 2.14(3), and is excepted from required public disclosure by Open Records Act section 3(a)(1).

You also ask whether the comptroller is required to ask each prize winner if he wishes to consent to disclosure of his address and telephone number to the public. The statute does not expressly require the comptroller to make such an inquiry of prize winners and there is no basis for us to infer that the legislature intended for the comptroller to do so. We therefore conclude that the comptroller is not required to ask prize winners if they wish to consent to disclosure of their addresses and telephone numbers.

You next ask whether a prize winner can orally consent to release of the confidential information. The statute is silent on this point, and in the absence of express direction in the statute, we conclude that either oral or written authorization is sufficient under the Lottery Act. The Lottery Act authorizes the comptroller to adopt rules necessary to administer the Lottery Act. See V.T.C.S. art. 179g, §§ 2.02(b), 2.02(c)(1), 2.02(d)(12), 2.02(d)(15)(B). The comptroller may, in his discretion, require that a consent to the release of confidential information be in writing.

You also inquire whether a prize winner may consent to release of confidential information to the press only, without making such information public information. We conclude that where a prize winner has authorized release of confidential information, the prize winner may define or limit the scope of the release. Thus, a prize winner who consents to disclosure of confidential information may designate the persons or class of persons, such as the press, to whom he wishes the confidential information released.

S U M M A R Y

Pursuant to the Texas Lottery Act, V.T.C.S. article 179g, section 2.14(3), the addresses and telephone numbers of Texas lottery prize winners are confidential and are exempt from public disclosure under the Texas Open Records Act, unless the prize winner has consented to release of such information. The comptroller is not required under the Lottery Act to ask prize winners if they wish to consent to release of such information. The Lottery Act does not prohibit the prize winner from consenting to release of such confidential information either

orally or in writing, or from designating the persons or class of persons to whom he wishes the confidential information released. The comptroller may, in his discretion, require that a consent to the release of confidential information be in writing.

Very truly yours,

A handwritten signature in black ink, appearing to read "Geoffrey Hennessey". The signature is written in a cursive style with a large initial "G".

Geoffrey Hennessey
Assistant Attorney General
Opinion Committee

**cc: Mr. Ed Sills
Austin Bureau Chief
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