

BAO 2004-0917-0030	Date Issued: 11/08/2004	View Request <a href="#">RQ 2004-0917-0030</a>
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Summary:	A homeowners' association that is a non-profit Texas corporation may be a bingo license holder if it meets the definition and eligibility requirements set forth in Texas Occupations Code Chapter 2001. A homeowners' association that is a licensed authorized organization may enter into a trust agreement with other bingo license holders in accordance with Texas Occupations Code §2001.439.
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**FIRST CLASS UNITED STATES MAIL  
and  
CERTIFIED MAIL NO. 7004 0750 0001 3237 5956  
RETURN RECEIPT REQUESTED**

BAO # 2004-0917-0030

November 8, 2004

Owen Anderson  
4165 Bluebonnet Hilltop Drive  
Fort Worth, Texas 76126

Re: Request for Advisory Opinion, #2004-0917-0030

Dear Mr. Anderson:

On September 17, 2004, the Texas Lottery Commission (the "Commission") received your e-mail requesting an advisory opinion related to license holders. Below is your request followed by the Commission's response.

This regards the Benbrook Lakeshore Neighbors Association with  
Taxpayer #1-75-2071751-7.

AND

In response to your reply BAO#2004-0712-022

I miss stated (sic) the question:

1. Can a Home Owners Association (Non-Profit Texas Corporation) be a Bingo license Holder?
2. Can the above then enter into a Trust Agreement with other Bingo License Holders?

ANSWER:

In response to your first question, a homeowners association that is a non-profit Texas corporation may be a bingo license holder as long as it qualifies as an authorized organization and meets eligibility requirements. A homeowners' association may hold a license to conduct

bingo if it qualifies as a fraternal organization<sup>[1]</sup> consistent with Texas Occupations Code §2001.101, which provides the following:

- (a) The commission may license a person who is an authorized organization eligible for a license to conduct bingo if the person is . . .
  - (3) a fraternal organization; . . .
- (b) A fraternal organization:
  - (1) must have been organized in this state for at least three years;
  - (2) must have had during the three-year period a bona fide membership actively and continuously engaged as an organization in furthering its authorized purposes; and
  - (3) may not have authorized a person on behalf of its membership, governing body, or officers to support or oppose a particular candidate for public office . . . .

In response to your second question, a homeowners' association that is a licensed authorized organization may enter into a trust agreement with other bingo license holders in accordance with Texas Occupations Code §2001.439 which provides the following:

- (a) Notwithstanding any other provision of this subchapter, a unit may be formed pursuant to a trust agreement between two or more licensed authorized organizations that conduct bingo at the same location. . . .

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### SUMMARY

A homeowners' association that is a non-profit Texas corporation may be a bingo license holder if it meets the definition and eligibility requirements set forth in Texas Occupations Code Chapter 2001. A homeowners' association that is a licensed authorized organization may enter into a trust agreement with other bingo license holders in accordance with Texas Occupations Code §2001.439

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This advisory opinion cannot be construed as a tax ruling or otherwise interpretive of the Internal Revenue Code. The information provided is completely limited to the context of the Bingo Enabling Act and the Charitable Bingo Administrative Rules.

This advisory opinion is based on the laws, rules and regulations in effect at the time of its issuance. All of the information provided herein is subject to change in law.

This opinion is purely advisory in nature and is limited to the particular questions at issue and to the facts presented in the request. Therefore, this opinion must not be relied upon as a previous determination regarding any conduct which is not substantially consistent with the opinions and facts stated in the request.

Yours truly,

William L. Atkins, Director  
Charitable Bingo Operations Division

cc: C. Tom Clowe, Jr., Chairman  
James A. Cox, Jr., Commissioner  
Rolando Olvera, Commissioner  
Kimberly L. Kiplin, General Counsel

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[\[1\]](#) Texas Occupations Code §2001.002 (11)(A)

“Fraternal organization” means:

(A) a nonprofit organization organized to perform and engaged primarily in performing charitable, benevolent, patriotic, employment-related, or educational functions that meet the other requirements of this chapter;. . .