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OFFICE OF THE ATTORNEY GENERAL

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335 West Main Street  
Dothan, Alabama 36301

Sheriffs – Bingo – Licenses and Permits –  
County Commissions

The Sheriff of Houston County is required to issue a Class C Bingo Permit when the sheriff has conducted an investigation and determined that an applicant has met the requirements and qualifications of the *Promulgating Updated Rules and Regulations for the Operation of Charitable Bingo in Houston County*.

The parts of a development for which a Class C Bingo Permit has been issued, as identified in a development agreement between the Houston County Commission and the developer, must be 70 percent completed and operational before bingo games may be started. Whether a development is 70 percent completed and operational is a factual determination that must be made by the sheriff.

Dear Mr. Sherrer:

This opinion of the Attorney General is issued in response to your request on behalf of the Sheriff of Houston County.

QUESTIONS

1. Is the Sheriff of Houston County authorized to issue a Class C Bingo Permit under the *Promulgating Updated Rules and Regulations for the Operation of Charitable Bingo in Houston County* and section 1 of

the Local Amendments for Houston County of the Recompiled Constitution of Alabama?

2. If so, is the sheriff's authority discretionary, or must the sheriff issue a permit to any qualified organization?

3. When is the permit issued?

4. What constitutes 70 percent completion of a project for purposes of the permit, and who makes the determination?

### FACTS AND ANALYSIS

Section 1 of the Local Amendments for Houston County of the Recompiled Constitution of Alabama authorizes bingo in Houston County. ALA. CONST. LOCAL AMENDS., Houston County § 1 (amend. 569). It states, in pertinent part, as follows:

(a) The operation of bingo games for prizes or money by certain nonprofit organizations and certain private clubs for charitable, educational, or other lawful purposes shall be legal in Houston County, subject to any resolution or ordinance by the county commission as provided by law regulating the operation of bingo. ***The county commission may promulgate rules and regulations for issuing permits or licenses and for operating bingo games*** within the county jurisdiction. . . .

*Id.* (emphasis added).

The Houston County Commission has promulgated rules pursuant to this authority. Section 4 provides for permit applications. Section 4(a) states that “[a]ny Nonprofit Organization or Qualified Club desiring to obtain a permit to operate Bingo Games hereunder shall make application to the sheriff on forms prescribed by the sheriff.” *Promulgating Updated Rules and Regulations for the Operation of Charitable Bingo in Houston County* § 4(a) (adopted Feb. 25, 2008). Section 4(c) details specific information and documentation that must be submitted before an application will be considered. *Promulgating Updated Rules and Regulations for the Operation of Charitable Bingo in Houston County*, § 4(c) (adopted Feb. 25, 2008).

Your first three questions are answered by the plain language of section 5, which provides for permit issuance. Section 5(a) states as follows:

(a) Upon receipt of a fully completed and documented application for a permit meeting all the requirements set out herein, the sheriff shall make such investigation as the sheriff may deem necessary or proper of the qualifications of each applicant as required herein and the truth and veracity of the information contained or attached to the application. After making such investigation and after being satisfied that all qualifications and requirements as set out herein have been fulfilled, the ***sheriff shall issue such permit*** to said applicant upon the terms and conditions herein set forth. . . .

*Promulgating Updated Rules and Regulations for the Operation of Charitable Bingo in Houston County*, § 5(a) (adopted Feb. 25, 2008) (emphasis added).

Words used in a statute must be given their natural, plain, ordinary, and commonly understood meaning, and where plain language is used, a court is bound to interpret that language to mean exactly what it says. *Ex parte Cove Properties, Inc.*, 796 So. 2d 331, 333-34 (Ala. 2000); *Ex parte T.B.*, 698 So. 2d 127, 130 (Ala. 1997); *State Dep't of Transp. v. McLelland*, 639 So. 2d 1370, 1371 (Ala. 1994). In addition, “[t]he word ‘shall,’ when used in a statute, is mandatory.” *Ex parte Nixon*, 729 So. 2d 277, 278 (Ala. 1998). Section 5(a) requires the sheriff to issue a Class C Bingo Permit when the sheriff has conducted an investigation and determined that an applicant has met the requirements and qualifications of the rules.

Finally, your fourth question concerns a condition placed on the Class C Bingo Permit by section 1(j) of the rules. This section limits that permit to a “multi-use development that incorporates a hotel, restaurants, dinner theaters, other entertainment- and amusement related retail space, and an entertainment venue with the capacity for at least 3144 persons to view live entertainment such as music.” *Promulgating Updated Rules and Regulations for the Operation of Charitable Bingo in Houston County*, § 1(j) (adopted Feb. 25, 2008).

Section 1(j) also states, in part, as follows:

Any Class C Bingo Permit for the operation of Charitable Bingo at a Class C Qualified Location shall at a minimum require the following pre-conditions to the actual operation or playing of Charitable Bingo games: (1) ***At least seventy percent (70%) of the qualifying separate elements of***

*the agreed upon multi-use development shall be completed and operational as a condition precedent to the conducting of any charitable bingo operations; . . . (4) A development agreement between the Commission and the developer describing in detail the scope, elements and planning of the master planned multi-use development with conditions and assurances reasonably required by the Commission to assure the intent of the Rules and Regulations is effectuated.*

*Id.* (emphasis added).

This section states that 70 percent of the elements identified in a development agreement between the county and the developer must be completed and operational before bingo games may be started. You included such a proposed agreement with your request as an example. The agreement specifies the following elements or parts of the development that are subject to the condition of 70 percent completion and operational as follows:

1. Midway Themepark
2. Tracy Lawrence Themed Venue
3. George Jones Themed Venue
4. Lorrie Morgan Themed Venue
5. Darryl Worley Themed Venue
6. John Anderson Themed Venue
7. Hotel (Branded Franchise – i.e. Holiday Inn Express, Hampton Inn or similar product)
8. Bingo Entertainment Center
9. Fair Grounds
10. RV Park

Proposed *Development Agreement*, Houston County Commission and Ronnie Gilley Properties, LLC, exhibit 1.3.

Section 1(j) does not address which public official or entity is charged with determining if the condition of 70 percent completion and operational is met. Therefore, the general enforcement provision of the rules in section 11 is applicable. That section states that “[t]he sheriff shall be charged with the duty to and shall enforce and supervise the administration and enforcement of all the rules, regulations and reporting required hereunder.” *Promulgating Updated Rules and Regulations for the Operation of Charitable Bingo in Houston County*, § 11 (adopted Feb. 25, 2008). Whether a development is 70 percent completed and operational is a factual determination that must be made by the

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sheriff. The sheriff should consult and cooperate with the Houston County Commission in making the determination.

CONCLUSION

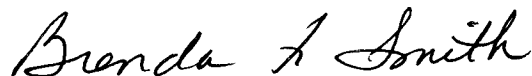
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I hope this opinion answers your questions. If this Office can be of further assistance, please contact Ward Beeson of my staff.

Sincerely,

TROY KING  
Attorney General  
By:



BRENDA F. SMITH  
Chief, Opinions Division

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