



DAVE YOST

OHIO ATTORNEY GENERAL

Charitable Law Section
Office 614-466-3181
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October 26, 2022

American Legion #164
3363 McDowell Rd.
Grove City, OH 43123

Certified Mail # 7011 3500 0000 6930 0838

Re: **Notice of Intent to Reject and Opportunity for Hearing**

Bingo Game Operators:

Enclosed is a Notice of Intent to Reject and Opportunity for Hearing. Please read it carefully as the information contained within concerns American Legion #164's bingo license. Be advised if you would like to request a hearing on this matter, **you must do so within 30 days of the mailing of this Notice**. Questions regarding the organization's past due annual reports should be directed to the Charitable Registration Unit at CharitableRegistration@OhioAGO.gov or 800-282-0515.

Thank you for your time and attention to this matter.

Very respectfully yours,

DAVE YOST
Ohio Attorney General

Daniel W. Fausey
Section Chief
Ohio Attorney General's Office
Charitable Law Section
30 E. Broad Street, 25th Floor
Columbus, Ohio 43215

Enclosure

CC: Liza Dietrich
Associate Assistant Attorney General
Charitable Law Section
Telephone: (614) 728-1819
Liza.Dietrich@OhioAGO.gov



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OHIO ATTORNEY GENERAL CHARITABLE LAW SECTION

IN THE MATTER OF:

American Legion #164
3363 McDowell Rd.
Grove City, OH 43123

October 26, 2022

License No. 0359-27

NOTICE OF INTENT TO REJECT AND OPPORTUNITY FOR HEARING

INTRODUCTION AND JURISDICTION

Notice is hereby given that, pursuant to Ohio Revised Code (“R.C.”) Section 2915.08(F)(2), the Attorney General intends to reject the 2022 Bingo License Application submitted by American Legion #164. In accordance with the provisions of R.C. Sections 119.06 and 119.07, you are hereby notified that you are entitled to a hearing.

American Legion #164 was first issued bingo license no. 0359-27 in 2006. The organization has been authorized to conduct bingo for subsequent years since it was first licensed. On or about November 3, 2021, American Legion #164 filed a 2022 bingo license application. American Legion #164 was issued a 2022 Temporary Permit on November 10, 2021.

The issuance of the temporary permit does not grant any rights to American Legion #164 other than those granted in R.C. 119.06 and does not prohibit the Attorney General from rejecting American Legion #164’s application. R.C. 2915.08(D).

On or about November 3, 2021, American Legion #164 filed a 2022 bingo license application. American Legion #164 updated its application, on June 3, 2022. On that application, American Legion #164 purported to be an organization exempt from federal income taxation under subsection 501(c)(19) status of the Internal Revenue Code. As of today’s date, American Legion #164 has not had its tax-exempt status reinstated by the I.R.S.

Notice is hereby given that the Attorney General intends to reject the 2022 Bingo License Application submitted by American Legion #164 for the following reasons:

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Charitable.OhioAGO.gov

COUNT 1

Only a “charitable organization” may apply for a license to conduct bingo and, if licensed, actually conduct bingo. R.C. 2915.08(A)(1), R.C. 2915.07(A).

To qualify as a “charitable organization” that is eligible to apply for a license and conduct bingo, American Legion #164 must have received a determination letter, that is **currently in effect**, from the Internal Revenue Service stating that the organization is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code or be a volunteer rescue service organization, volunteer firefighter’s organization, veteran’s organization, fraternal organization, or sporting organization that is exempt from federal income taxation under subsection 501(c)(4), (c)(7), (c)(8), (c)(10), or (c)(19) of the Internal Revenue Code. R.C. 2915.01(H).

American Legion #164 does not meet the definition of “charitable organization” in R.C. 2915.01(H), because it does not have the required tax-exempt determination from the IRS. In or about November 2019, the Internal Revenue Service revoked American Legions #164’s 501(c)(19) tax-exempt determination. As of today, the organization’s tax-exempt status has not been reinstated by the IRS. Because it is not a “charitable organization,” American Legion #164 is neither eligible to obtain a license to conduct bingo nor is it eligible to conduct bingo.

The Attorney General intends to reject American Legion’s 2022 application to conduct bingo because it fails to meet the requirements of R.C. 2915.08 because it is not a “charitable organization” and any bingo advertised or conducted by American Legion #164 is a violation of Section 2915.07(A).

COUNT 2

Charitable organizations who desire to conduct bingo must comply with the Ohio Attorney General’s registration requirements under R.C. Section 1716.02.

Pursuant to R.C. Section 1716.02, American Legion #164 is required to file a registration statement annually with the Ohio Attorney General’s Office. American Legion #164 failed to file a registration statement in 2021. As of today, American Legion #164 is not in compliance with the registration requirements set forth in R.C. 1716.02.

R.C. Section 1716.02 requires charitable organizations that intend to solicit contributions in Ohio to file a registration statement with the attorney general upon a form prescribed by the attorney general.

R.C Section 2915.08(F)(2) states “If any of the following applies to an organization, the attorney general may refuse to grant a license to the organization, may revoke or suspend the organization's license, or may place limits, restrictions, or probationary conditions on the organization's license for a limited or indefinite period, as determined by the attorney general: (a) The organization fails or has failed at any time to meet any requirement of section 109.26, 109.31, or 1716.02....”

LAWS AND RULES

Ohio Revised Code section 2915.08(F)(2) states “If any of the following applies to an organization, the attorney general may refuse to grant a license to the organization, may revoke or suspend the organization's license, or may place limits, restrictions, or probationary conditions on the organization's license for a limited or indefinite period, as determined by the attorney general:

- (a) The organization fails or has failed at any time to meet any requirement of section 109.26, 109.31, or 1716.02, or sections 2915.07 to 2915.15 of the Revised Code, or violates or has violated any provision of sections 2915.02 or 2915.07 to 2915.13 of the Revised Code or any rule adopted by the attorney general pursuant to this chapter.
- (b) The organization makes or has made an incorrect or false statement that is material to the granting of the license in an application filed under this section.
- (c) The organization submits or has submitted any incorrect or false information relating to an application if the information is material to the granting of the license.
- (d) The organization maintains or has maintained any incorrect or false information that is material to the granting of the license in the records required to be kept pursuant to section 2915.10 of the Revised Code, if applicable.
- (e) The attorney general has good cause to believe that the organization will not conduct bingo in accordance with sections 2915.07 to 2915.15 of the Revised Code or with any rule adopted by the attorney general pursuant to this chapter.”

Ohio Revised Code section 2915.08(F)(3) further states, “If the attorney general has good cause to believe that any director or officer of the organization has breached the director's or officer's fiduciary duty to, or committed theft or any other type of misconduct related to, the organization or any other charitable organization that has been issued a bingo license under this chapter, the attorney general may refuse to grant a license to the organization, may impose limits, restrictions, or probationary conditions on the license, or may revoke or suspend the organization's license for a period not to exceed five years.”

Finally, under R.C. 2915.08(F)(4), “The attorney general may impose a civil fine on an organization licensed or permitted under this chapter for failure to comply with any restrictions, limits, or probationary conditions on its license, and for failure to comply with this chapter or any rule adopted under this chapter, according to a schedule of fines that the attorney general shall adopt in accordance with Chapter 119. of the Revised Code.”

HEARING PROCEDURES

Pursuant to the Administrative Procedure Act, Ohio Revised Code Section 119.07, an Applicant who has been issued a Notice of Intent to Reject and Opportunity for Hearing may request a hearing before the Charitable Law Section of the Office of the Ohio Attorney General within thirty (30) days of the time of the mailing of the Notice. **The request for a hearing must be received by the Charitable Law Section of the Office of the Ohio Attorney General within thirty (30) days of the mailing of this Notice.**

The Applicant may appear in person, by his or her attorney, or by such other representative who is permitted to practice before the Ohio Attorney General's Office. The Applicant may present evidence and examine witnesses appearing for and against the Applicant or may present a position, argument and contentions in writing in lieu of appearing at the hearing. A hearing may be continued on motion of either the Attorney General or the Applicant, if the Attorney General so approves.

Failure to request a hearing within the time prescribed may result in the Attorney General issuing an adjudication order regarding the application without conducting a formal hearing in the matter.

Requests for a hearing upon the Notice of Intent to Reject and Opportunity for Hearing must be submitted to the undersigned at the address listed below.

Very respectfully yours,

DAVE YOST
ATTORNEY GENERAL



Daniel W. Fausey
Section Chief
Ohio Attorney General's Office
Charitable Law Section
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(614) 466-3181

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