

POKER ROOMS OF TEXAS



CURTIS HOWARD, SR. LEGAL ADVISOR

PLANO POLICE DEPARTMENT

&

MICHELLE D'ANDREA

ASSISTANT CITY ATTORNEY

CITY OF PLANO







The Texas Model

- ♠ **The Texas Card House – Austin, Texas**
- ♠ **Sam Von Kennel – Former Chairman of the Licensing and Admin. Committee**
- ♠ **Players pay an initial membership fee and an hourly seat rental**
 - ♣ **\$5.00/day**
 - ♣ **\$40.00/month**
 - ♣ **\$10.00 + tax/hour**
- ♠ **The house does not collect a rake**
- ♠ **Dealer tipping is not allowed**

Gambling – Ch. 47 Texas Penal Code

♠ (a) A person commits an offense if he:

♣ (3) plays and bets for money or other thing of value at any game played with cards, dice, balls, or any other gambling device.

♠ (b) It is a defense to prosecution under this section that:

♣ (1) the actor engaged in gambling in a private place;

♣ (2) no person received any economic benefit other than personal winnings;
AND

♣ (3) except for the advantage of skill or luck, the risks of losing and the chances of winning were the same for all participants.

Definitions

Texas Penal Code 47.01(8)

- ♠ **“Private Place”** - a place to which the public does not have access, and excludes, among other places, streets, highways, restaurants, taverns, nightclubs, schools, hospitals, and the common areas of apartment houses, hotels, motels, office buildings, transportation facilities, and shops.
- ♠ **“Benefit”** - anything reasonably regarded as economic gain or advantage, including benefit to any other person in whose welfare the beneficiary is interested. Anything to which a price can be assigned. *Smith v. State* 959 SW2d 1, 20-21 (Tex. App. – Waco 1997, pet. ref’d)

Poker Room of Texas





1-888-SHUFFLE

888-748-3353

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
3:00pm - 4:00am	3:00pm - 4:00am	3:00pm - 4:00am	3:00pm - 4:00am	12:00pm - 5:00am	12:00pm - 5:00am	12:00pm - 5:00am

- Home
- About Us
- Cash Games
- Games
- Tournaments
- Membership
- Security
- Contact Us
- Hiring
- Franchising
- We Are Legal

We Are Not the first

Texas Card House in Austin, TX has been open since February 2015.

This legal poker room has been the blue print that we have used to create a safe, fun, and legal place for people in the Dallas Metro to play.

We did not invent the wheel, we just brought it to Plano.

www.TexasCardHouse.com

MUST BE 21 WITH VALID I.D. TO APPLY FOR MEMBERSHIP



Why?

It's Legal

- We are a professional establishment with a social atmosphere for the public.
- Members participate.
- Poker Room rake free & play for ever.

Your Safety

- Poker Room added peer monitoring.
- Armed Security for our members premises.

Our Community

- We provide a great experience for our members!
- Outside Food & Drink is permitted.
- BYOB establishment.

What Sets Us Apart?

Legal

Certificate of Occupancy from the city of Plano

Texas Sales and Use Tax Permit

Employment Identification Number

Incorporated business in the state of Texas

What Sets Us Apart?

Legal

Certificate of Occupancy from the city of Plano
Texas Sales and Use Tax Permit
Employment Identification Number
Incorporated business in the state of Texas

Safe

Armed Security officer on staff
Surveillance Cameras
Well lit parking lot

Community

Professional atmosphere!



CERTIFICATE OF OCCUPANCY

Name of Business: **POKER ROOMS OF TEXAS, LLC**

Location: 3198 W PARKER RD #3124

Date: 12/1/16

Permit Number: 16-22593

Bldg. Sprinkler: N

Use: ASSEMBLY HALL

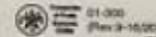
Zoning: RETAIL Type of Construction: II-B Occupancy Group: A-3 O.L.: 150

Said premises has been inspected by the Building Inspections Department and has been certified as being in compliance with the 2015 ICC codes and all applicable ordinances of the City of Plano. Immediate and future inspections may occur by the Health and/or Fire Department to insure continued compliance with applicable codes and regulations.

Owner name/address: PARKER LANICERS SQUARE LLC

Selso Mata - Chief Building Official

Conditions: Utility Operations Department will inspect and require protection of the water supply system



TEXAS SALES AND USE TAX PERMIT

This permit is not transferable, and this side must be prominently displayed in your place of business.

Retailers: A seller may NOT accept a copy of this permit in lieu of a properly completed exemption or resale certificate. A certificate is necessary to document why tax is not collected on a sale.

You must obtain a new permit if there is a change of ownership, location, or business location name.

TAXPAYER NAME, BUSINESS LOCATION NAME, and PHYSICAL LOCATION

POKER ROOMS OF TEXAS, LLC

**POKER ROOMS OF TEXAS
3198 W PARKER RD STE 3124
PLANO
COLLIN COUNTY**

TX 75075-1807

Type of permit
SALES AND USE TAX

Taxpayer number
3-20607-3082-0

Location number
00001

First business date of location
08/01/2016

NAICS CODE: **713990**

DESCRIPTION ON NEXT LINE:

All Other Amusement and Recreation Industries

WE SHOW THIS BUSINESS IN THE FOLLOWING LOCAL SALES TAX AUTHORITIES:

CITY: **PLANO** EFF: **08/01/2016**

TRANSIT: **DALLAS MTA** EFF: **08/01/2016**

Glenn Hegar
Comptroller of Public Accounts

You may need to collect sales and/or use tax for other local taxing authorities depending on your type of business. For additional information, see "Collecting Local Sales and Use Tax" section on the back of this document. If you have any questions regarding sales tax, visit our website at www.comptroller.texas.gov or call us at 1-800-252-5555.



GAMBLING: The Texas Penal Code 47.02 (a) prohibits card gambling. However, under section 47.02 (b) it is a defense to prosecution that:

- (1) the actor engaged in gambling in a private place (our establishment is a private place);
- (2) no person received any economic benefit other than personal winnings; and
- (3) except for the advantage of skill or luck, the risk of losing and the chances of winning were the same for all participants.

The Room believes that the card playing activities in which its Members may engage as anticipated under this Agreement is legal under Section 47.02 (b) of the Texas Penal Code. However, The Room does not and cannot warrant or represent that such activities are not criminal, that they will not be prosecuted under Texas law, or that if prosecuted, such activities are defensible. The Room is not authorized to practice law or give legal advice and it is not hereby providing legal advice to its Members or prospective Members. The room will not provide any table games with a house advantage such as blackjack, roulette, craps, etc. We are a card enthusiast private club, not a casino.



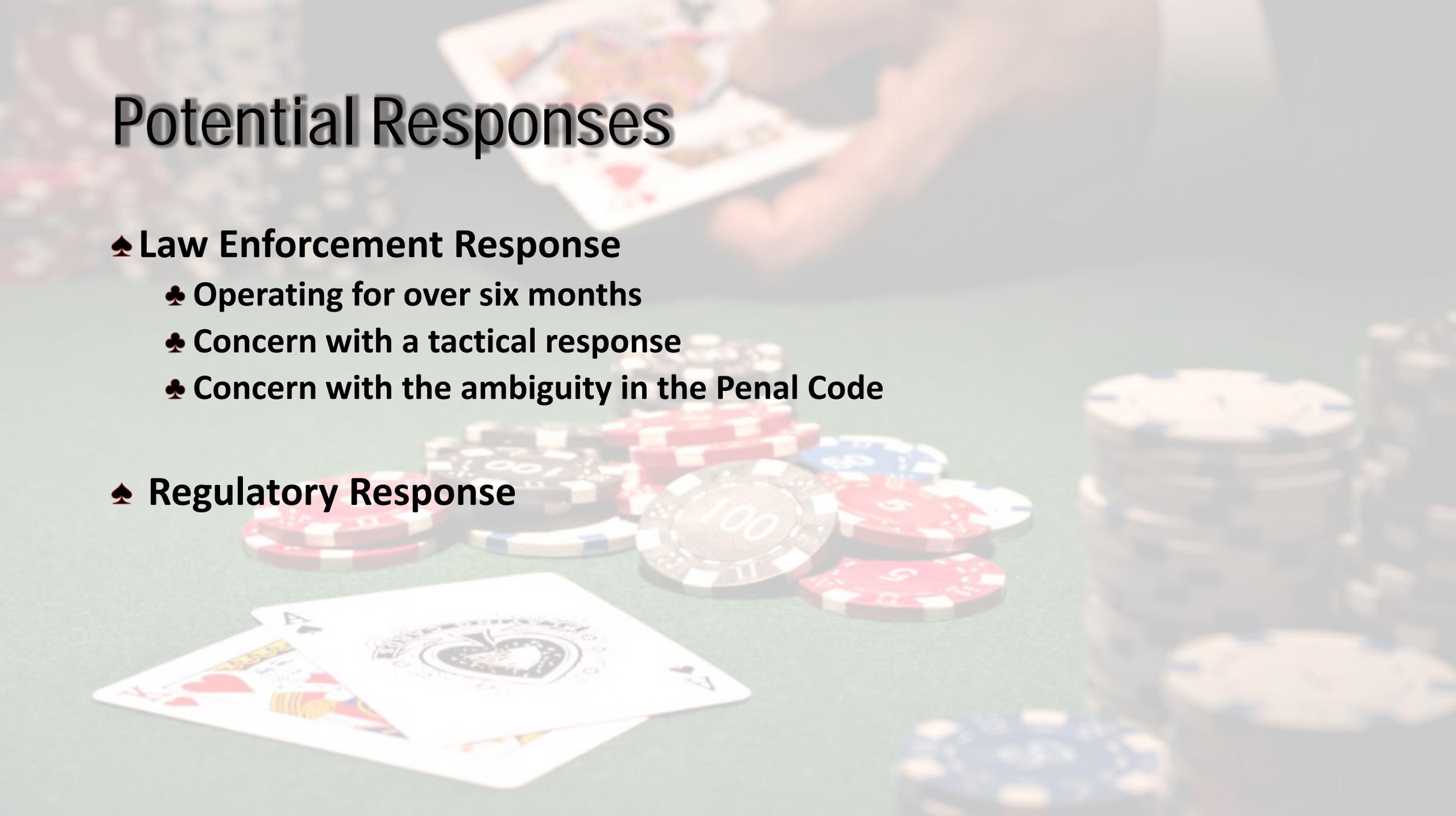
June 2017 Complaint

- ♠ Player the police and complained about the Poker Rooms of Texas
- ♠ Explained that it was not regulated
- ♠ Questioned the legality of “public” poker rooms in Texas

Applications for Certificates of Occupancy

- ♠ **Poker Rooms of Texas**
- ♠ **Texas Card Club, LLC**
- ♠ **Big Texas Poker, LLC**
- ♠ **Topset Poker Club**
- ♠ **DFW Card Club**
- ♠ **Royal Card Club**

Potential Responses

The background of the slide is a blurred image of a poker table. In the upper center, a hand is seen holding a fan of cards. In the foreground, there are several stacks and individual chips of various colors (red, blue, black, white) and denominations (100, 50, 25). Two cards, the King of Hearts and the Ace of Spades, are visible in the lower left corner.

♠ Law Enforcement Response

- ♣ Operating for over six months
- ♣ Concern with a tactical response
- ♣ Concern with the ambiguity in the Penal Code

♠ Regulatory Response

Regulatory Issues

♣ Certificates of Occupancy issued:

- Indoor Commercial Amusement
- Assembly Hall

♣ Certificate of Occupancy purpose

- Compliance with Building Code
- Compliance with other laws enforced by the Department of Building Safety



Regulatory Issues

- ♠ **Zoning Ordinance – no clear language on illegal gambling**
- ♠ **Property Standards investigation**
- ♠ **Misdemeanor enforcement**

OR

- ♠ **Building Code- revocation when “building or structure” is in violation of any ordinance**

Regulatory Issues

- ♠ Aces & Eights from Tombstone AZ
- ♠ Hearing before the Board of Adjustment



County Response

♠ July 2017

- ♣ **Met with city attorneys, law enforcement officials, and the D.A.'s office**
- ♣ **Determined that the current business model violated the gambling statute**
- ♣ **Discussed possible responses:**
 - Revoking certificates of occupancy
 - Notifying owners of the illegality by certified letter
 - Filing a suit to enjoin the use of a place for purposes constituting a nuisance
 - Criminal Prosecution
 - Forfeiture with or without criminal prosecution

Soft Approach



Police Department
808 11th Street
Plano, TX 75076
Tel: 972.424.5978
plano.police.org

City of Plano
P.O. Box 693556
Plano, TX 75086-0356
Tel: 972.941.7000
plano.gov

September 8, 2017

Big Texas Poker, LLC

Dear Ms. .

It has come to our attention that you applied for a Certificate of Occupancy for Big Texas Poker, LLC. The Plano Police Department is sending you notice that the business model that is being used in poker gaming establishments in Texas may be in violation of Chapter 47 of the Texas Penal Code. If it is determined that an illegal gambling operation is being conducted on any premises within our jurisdiction, enforcement action may be taken.

If you have any questions, please feel free to contact me.

Respectfully,

A handwritten signature in black ink that reads "Dan Curtis".

Dan Curtis
Assistant Chief of Police

C.J.'s Card Club – Sept. 7, 2017





Mon	3PM-4AM
Tues	3PM-4AM
Wed	3PM-4AM
Thur	3PM-4AM
Friday	Noon-5AM
Saturday	Noon-5AM
Sunday	Noon-4AM

CLOSED

WHILE WE

WORK WITH

LOCAL AUTHORITIES

TO RESOLVE

ANY ISSUES



Membership Required

Must be 21 years of age

B.Y.O.B. facility

Dallas Morning News

'Threatening letters'

Big Texas Poker Club opened in late August in a commercial building off Jupiter Road in Plano. Owners Fred and Heather Zimmerman said they did their homework to ensure that they would be legal. Three weeks later, they

The couple said they were transparent about their club as they sought a city permit to open. Only after they started gaining members did they receive "threatening letters" from police stating that their business model violated the state's gambling law.

Plano City Attorney Paige Mims said certificates of occupancy are about the fitness of a building and have nothing to do with the activity inside. As for whether a private card room can operate, she said the city does not give legal advice.



7.  DALLAS COWBOYS OWNER JERRY JONES WAS CONFRONTED BY PROTESTERS

5:48 53°



TEXAS HOUSE OF REPRESENTATIVES

RECEIVED

JAN 26 2018

CAPITOL OFFICE:
P.O. BOX 2910
AUSTIN, TEXAS 78768-2910
(512) 463-0456
(512) 463-0158 fax

DISTRICT OFFICE:
P.O. BOX 4642
VICTORIA, TEXAS 77903
(361) 572-0196
fax (361) 576-0747



OPINION COMMITTEE

FILE # ML-48301-18
48301

DISTRICT 30

COUNTIES:
ARANSAS
CALHOUN
DEWITT
GOLIAD
REFUGIO
VICTORIA

GEANIE W. MORRISON

COMMITTEES:
TRANSPORTATION - CHAIR
HIGHER EDUCATION
SELECT COMMITTEE ON TEXAS PORTS, INNOVATION & INFRASTRUCTURE

RQ-0209-KP

January 26, 2018

The Honorable Ken Paxton
Attorney General of Texas
209 W. 14th Street

RQ-0209-KP

Received:

Friday, January 26, 2018

Re:

Whether a gambling establishment that charges a membership or entrance fee but does not take a percentage of the value gambled violates the gambling provisions of the Penal Code

Requestor:

The Honorable Geanie W. Morrison
Chair, Committee on Transportation
Texas House of Representatives
Post Office Box 2910
Austin, Texas 78768-2910

receive other compensation from gamblers playing poker—but do not receive a “rake”—permitted under Texas law?

Sincerely,

Geanie W. Morrison

Geanie Morrison
Chair, Transportation Committee



EMAIL: Geanie.Morrison@house.texas.gov