



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 17, 2009

Ms. Katherine R. Fite
Assistant General Counsel
Office of the Governor
P.O. Box 12428
Austin, Texas 78711

OR2009-05098

Dear Ms. Fite:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 341798.

The Office of the Governor (the "governor") received a request for Washington Mutual's annual job creation compliance report for 2008. You claim the submitted information is excepted from disclosure under section 552.110 of the Government Code.¹ You also state you have notified Washington Mutual of the governor's receipt of the request for information and its right to submit arguments to this office as to why the information should not be released to the requestor. *See Gov't Code § 552.305(d); see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have received comments from Washington Mutual. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note that the submitted information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2009-01479A

¹ Although you have raised sections 552.101 through 552.147 of the Government Code, you have not submitted arguments, other than under section 552.110, explaining the applicability of the claimed exceptions. Therefore, we presume you have withdrawn any exceptions other than section 552.110. *See Gov't Code §§ 552.301, .302.*

(2009). In Open Records Letter No. 2009-01479A, we ruled that the governor must withhold the information we have marked under section 552.110(b) of the Government Code and release the remaining information. We conclude that, as we have no indication that the law, facts, and circumstances on which the prior ruling was based have changed, the governor must continue to rely on that ruling as a previous determination and withhold or release the submitted information in accordance with Open Records Letter No. 2009-01479A. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).²

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,


Chris Schulz
Assistant Attorney General
Open Records Division

CS/cc

Ref: ID# 341798

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

² As our ruling is dispositive, we need not address your arguments against disclosure.

Mr. Paul V. McCarthy
Senior Counsel
Legal Department
Washington Mutual
Mail Stop WMC3501
1301 Second Avenue
Seattle, Washington 98101
(w/o enclosures)