



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 19, 2013

Ms. Dorothy Palumbo
City Attorney
City of Galveston
P.O. Box 779
Galveston, Texas 77553-0779

OR2013-14463

Dear Ms. Palumbo:

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# 496600 (ORR# 13-298).

The City of Galveston (the "city") received a request for a specified legal opinion. You claim the submitted information is excepted from disclosure under sections 552.107 and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You inform us the submitted information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2013-09320 (2013). In that decision, we ruled the city may withhold the information at issue under section 552.107(1) of the Government Code. You explain that, although the legal opinion appears to have been released, the city did not authorize the release and has engaged the representation of a law firm to investigate the potential unauthorized release of the legal opinion. Section 552.007 of the Government Code provides that if a governmental body voluntarily releases information to any member of the public, the governmental body may not withhold such information from further disclosure unless its public release is expressly prohibited by law or the information is confidential under law. *See* Gov't Code § 552.007; Open Records Decision No. 518 at 3 (1989). However, we note a governmental body is not precluded from invoking an exception to further public disclosure of information that has been released through no official action and against the wishes and policy of the governmental body. *See* Open Records Decision No. 376 at 2 (1983); *see also* Open Records

Decision No. 387 at 3 (1983) (information that is not voluntarily released by a governmental body, but nevertheless comes into another party's possession, is not henceforth automatically available to everyone). Because the city states it did not voluntarily release the information at issue, we conclude the city did not now waive its claim under section 552.107. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982). Therefore, as there has been no change in the relevant law, facts, and circumstances on which the previous ruling was based, we conclude the city may rely on Open Records Letter No. 2013-09320 as a previous determination and withhold the submitted information at issue in accordance with that ruling. *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). As our ruling is dispositive, we need not address your arguments against disclosure of this information.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/ag

Ref: ID# 496600

Enc. Submitted documents

c: Requestor
(w/o enclosures)