

ADVISORY OPINION 1987-17

FACTS

An attorney requests an advisory opinion regarding the reporting of the identity of City employees and officials lobbied, on the lobbyist periodic and annual reports. The writer explains that problems exist with identifying all the City employees present at public meetings of the Board of Estimate, City Planning Commission, and the executive sessions of these bodies, since no attendance lists are kept. In some instances, at Board of Estimate executive sessions, the members of the Board themselves do not sit, but designate persons on their staff, some of whom may not be familiar to the attorney. Also, at meetings with specific City employees, present at such meetings are persons on the employee's staff whom the attorney does not know, and often other persons will walk into the meeting for limited portions of its duration. It is often unclear that these people have anything to do with the substance of the decision being made.

ISSUE

Which City employees and or officials should be reported on the lobbyist periodic and annual reports?

OPINION

Section 3-216 (b) (4) of the Lobbying Law provides that the periodic report must contain "[the name of] the person or agency before which the lobbyist has lobbied." Section 3-217 (c) (4) states that the lobbyist annual report must contain "[the name of] the person or agency before which the lobbyist has lobbied".

Due to the complexities of modern government, it is a well accepted practice for government decision-makers to delegate decision-making power to specified subordinates and to rely heavily on the informed recommendations of subordinates in the decision-making process. It is virtually impossible for today's busy government legislator or executive to become intimately familiar with all the information necessary for decision-making in every instance, and thus competent staff are essential to the decision-making process.

Accordingly, in identifying the person or agency lobbied on the periodic report or annual report, the lobbyist must disclose the identity of the decision-maker whom the lobbyist has attempted to influence. Also, the lobbyist must report and disclose the designated representatives of the decision-maker whom the lobbyist has attempted to influence if such representatives have the authority to make decisions on behalf of the decision-maker, or if the decision maker relies upon their substantive input. It is the duty of the lobbyist to ascertain the identity of these persons.

In the context of a public meeting of a government body at which the lobbyist attempts to influence any of the actions listed in Sec. 3-211 (c)(1), the lobbyist must disclose and report the name of the body and the presiding member or the

person sitting in place of the presiding member. In addition, the identity of any other City official or employee whom the lobbyist directly attempts to influence at the public meeting must also be reported.

Lastly, on the lobbyist periodic and annual report form where lobbying activity is reported, it is improper simply to state as the persons lobbied "the City Council and staff", the Mayor's office staff", or "the City Planning Commission and staff". Such broad descriptions suffice only on the statement of registration made pursuant to Sec. 3-213, in cases where the persons to be lobbied are as yet unknown. The City Clerk interprets sections 3-216 (b) (4) of the Lobbying Law to require that on the lobbyist periodic and annual reports, the name of each City employee and/or official lobbied, and the name of the City agency the City official or employee is employed by, represents, or presides over, must be disclosed and reported. The lobbyist should utilize the guidelines established in this opinion in completing the portion of the lobbyist periodic and annual reports where the name of the City employee or official lobbied is reported.

CONCLUSION

It is the determination of the City Clerk that on the lobbyist periodic report and on the annual report, the lobbyist must disclose attempts to influence: the decision-maker; staff members of the decision-maker whom authority to decide has been delegated; and those staff members upon whom the decision-maker relies for substantive input. However, in the context of attempts to influence a government body at a public meeting, the lobbyist must disclose and report the name of the body and the presiding member or designated person sitting in place of the presiding member. The lobbyist must also report and disclose the identity of any other City official or employee present at the public meeting whom the lobbyist has specifically attempted to influence.

Finally, the name of each City official and employee lobbied, and the name of the City agency that the official or employee is employed by, represents, or presides over, must be disclosed and reported on the lobbyist periodic and annual reports.

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