

PUBLIC POLICY & GOVERNMENT RELATIONS BULLETIN

February 2008

CITY OF TORONTO LOBBYIST REGISTRY COMES INTO EFFECT

Starting February 11, 2008, most contacts with municipal officials in Toronto will require registration under the new Lobbyists Registration Code (the “Code”).

While the Code applies to many of the activities covered by the broadly similar Federal and Ontario lobbyist registration acts, it adds some new wrinkles, including requiring voluntary lobbyists to register and imposing quite stringent deadlines for registration.

In the result, many activities that companies undertake with the City of Toronto on a daily basis could require registration by either the senior responsible person in the company or by the lawyer or consultant acting on their behalf. Registering means filing a return outlining among other things, information about the company or client, the subject matter and the office or public office holder being lobbied.

A “public office holder” includes the Mayor, Councillors and their staff, all City of Toronto employees, members of most local boards and agencies, their staff and employees, and members of advisory boards and committees. Failure to register could result in a fine of up to \$25,000 in the case of the first offence and \$100,000 for subsequent offences.

WHAT KINDS OF ACTIVITIES COUNT AS LOBBYING?

An individual is considered to be lobbying if he or she is communicating (via oral, written, or an electronic method) with a public office holder outside of a public process, about matters of interest or benefit to the lobbyist and their client, business or organization. Communication may be about a by-law, an existing or prospective policy or program, a procurement, grant, permit or licence, planning approval, a potential contract or on any matter that requires a decision by City Council, a local board or a delegated decision maker.

Lobbying activities do not include: requesting information or providing feedback on services or programs, communicating about the application of an Act or by-law or administration or a policy, program, directive or guideline, and communication about a personal matter.

WHO MUST REGISTER?

Any individual that:

- is paid to lobby on behalf of clients (“Consultant Lobbyists”);
- is employed by a business or association to lobby on behalf of their employer (“In-house Lobbyists”); and
- lobbies on behalf of a business or not-for-profit organization without pay (“Voluntary Lobbyists”).

McMillan Binch Mendelsohn offers a wide range of government relations services at all levels. We can help you navigate the difficult shoals of dealing with government. We can get you to the right decision-maker, advise when registration is required, and help you navigate potential issues such as protecting confidential information. We can also help you with the initial registration and, where appropriate, keep your return accurate and up-to-date.

HOW TO REGISTER

Lobbyists must register prior to engaging in lobbying activities and the deadlines are very tight. Lobbyists can register free online through the Lobbyists Registration System by providing the following information:

- identification and contact information for each of the lobbyist, client, business or organization for which the lobbying is taking place (and, in some cases, parent or subsidiary companies);
- identification and contact information of any entity or organization that contributed \$750 or more toward the lobbying activities;
- subject matter of the lobbying activity to be undertaken;
- name of the division or program of the City or local board and the Member of Council that the lobbyist expects to lobby;
- communication methods that the lobbyist expects to use; and
- information about any senior City or local board position previously held by the lobbyist.

Where any of the information on the registry changes, lobbyists must amend their registration within two business days. Returns need not necessarily be amended for every communication. One return can cover multiple communications relating to the same subject matter. Lobbyists are also required to confirm their registration information annually.

Consultant lobbyists have the responsibility for filing their own returns. For in-house lobbyists, the most senior officer or staff of the organization is required to register. Voluntary lobbyists register as consultant lobbyists unless they are undertaking the lobbying as part of their employment duties (i.e. are in-house lobbyists).

HOW TORONTO'S REGISTRY DIFFERS

One important difference between the City system and the Federal and Ontario systems is when a lobbyist must file. While the Federal and Ontario systems allow a lobbyist to file a return ten days after commencing lobbying, the City system requires registration before a lobbyist communicates with public office holders. While under the Federal and Ontario systems, subsequent changes or new information must be filed within thirty days of the change, the City system requires that changes must be reported within two business days.

Another difference of the Toronto system is the requirement that voluntary lobbyists register. While the Federal and Ontario systems exempt those who don't get paid to lobby, the City system requires individuals who lobby on behalf of a business or not-for-profit organization without pay to register.

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The foregoing provides only an overview. Readers are cautioned against making any decisions based on this material alone. Rather, a qualified lawyer should be consulted.
