

FACT SHEET ON LAND USE PROFESSIONALS AND THE LOBBYING ORDINANCE

The City's Lobbying Ordinance imposes registration and reporting requirements on lobbying firms and organization lobbyists, including land use firms, professional design firms, technical consultants, and real estate developers when their employees attempt to influence decisions made by city officials. This fact sheet is designed to help those individuals determine whether they are lobbyists and whether the company they work for is required to register with the City Clerk and report lobbying activities. It should not, however, be considered a substitute for the actual language contained in the lobbying ordinance.

GENERAL INFORMATION

- ❖ Professionals in the land use field, including but not limited to architects, engineers, planners, environmental consultants, construction managers, and developers are not exempt from the City's lobbying laws. Regardless of the job titles used by these individuals, if they lobby city officials, they are lobbyists.
- ❖ An individual who is paid by a client, by an employer, or by his/her own company to communicate with city officials for the purpose of influencing City decisions is a lobbyist, even if this activity consumes only a small percentage of the individual's time.
 - ✓ For example, Bolton Builders is seeking the City Council's approval of a final map for a project in Sorrento Valley. In response to negative comments about the project made by community members in a newspaper article, Bolton Builders' vice president has meetings with the Mayor and each of the nine Councilmembers to urge them to support the project. Because Bolton Builders' vice president has had ten lobbying contacts, the company is required to register as an organization lobbyist.
 - ✓ In connection with the Sorrento Valley project, Bolton Builders retains an architectural firm and a traffic engineering firm. These firms respectively send an architect and traffic engineer to meet with an assistant deputy director in the development services department to explain the mitigation efforts Bolton Builders will undertake in response to the concerns that have been raised. Because of their participation in this meeting, the architect and traffic engineer have each had a lobbying contact on behalf of a client and, as a result, both of their companies are required to register as lobbying firms.
- ❖ Lobbying includes any direct communications (for example, a private meeting, talking on the telephone, sending a letter or e-mail) with a city official outside of a publicly noticed Brown Act meeting (for example, a meeting of the City Council or planning commission) for purposes of influencing a municipal decision.
- ❖ The term city official applies to elected officials and their staffs, department directors, assistant directors, deputy directors, assistant deputy directors, and other high ranking City employees. It also applies to high ranking City agency employees (e.g., Civic San Diego executives) and members of certain boards and commissions, including the planning commission and the historical resources board. Please refer to the fact sheet entitled "Am I a Lobbyist?" for a list of the positions that are considered city officials.

- ✓ The ethics commission maintains lists of city officials on its website, including lists of unclassified officers and employees, City boards and commissions, and agency officials. Note that these lists are only updated quarterly and may not contain the most current information.
- ✓ Most City engineers and planners and other City staff who regularly process land use applications and permits in the normal course of business are not city officials. The lobbying ordinance is not intended to apply to communications relating to the routine processing of land use matters.
- ❖ A municipal decision includes any decision of the City Council, a Council committee, or most of the City boards and commissions. It also includes any quasi-judicial decision relating to a land development permit, map, or other matter decided pursuant to process 2 through 5 of the City's Land Development Code.
- ❖ The term influencing a municipal decision is broadly construed, and includes providing information, analysis, or studies to a city official. Accordingly, an individual is lobbying when he or she provides a city official with a verbal or written report or analysis regarding a project that is the subject of an upcoming municipal decision.
 - ✓ Note that solely providing purely technical materials such as architectural drawings or engineering plans to City staff is not considered lobbying.
- ❖ There are different qualifying thresholds for lobbying firms and organization lobbyists. A person or entity that has one or more compensated lobbying contacts on behalf of a client must register as a lobbying firm.
 - ✓ For example, Downtown Designs is an architectural firm hired by a client to convert an existing apartment building to condominiums. One of the firm's architects happens upon a member of the historical resources board at a social function and spends time explaining why the board should designate the client's project as a historical landmark despite changes to the building exterior. Because this communication constitutes a lobbying contact on behalf of a client, the firm must register with the City Clerk as a lobbying firm.
 - ✓ Note that in the above example, registration would be required even if the architect was a sole proprietor; individuals are considered lobbying firms when they are paid by clients to communicate with city officials for the purpose of influencing a municipal decision.
- ❖ Registration is required even if the client and the client's regular lobbyist are also present at a meeting with a city official. Regardless of any other attendees, if an architect or engineer attends a meeting for a client and provides information or makes comments to influence a city official's decisionmaking, that architect or engineer has had a lobbying contact, and his or her firm must register as a lobbying firm.
- ❖ Organization lobbyists have a different registration threshold than lobbying firms. A company will qualify as an organization lobbyist if its owners, compensated officers, or employees have a total of ten or more separate lobbying contacts with city officials on behalf of the company within any sixty calendar day period.
 - ✓ For example, Lannister Properties is a real estate developer specializing in mixed use projects. It sends an employee to meet with a housing commission vice president regarding an affordable housing agreement for a company project in Mission Valley. That meeting

constitutes one lobbying contact. If employees of Lannister Properties have a total of nine more lobbying communications with city officials during the next sixty days, it must register as an organization lobbyist.

- ❖ An entity must register with the City Clerk within ten days of becoming a lobbying firm or organization lobbyist. Thereafter, it must file quarterly reports disclosing its lobbying efforts as well as related activities, including campaign fundraising and political contributions. Information regarding filing requirements can be found in the Commission's fact sheet on lobbying disclosure forms.

Fact sheets and other educational materials pertaining to the lobbying ordinance can be found on the ethics commission's website. If you have any questions concerning the application of the Lobbying Ordinance to land use professionals, please contact the ethics commission at (619) 533-3476.

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