

Frigo, Victoria (COE)

From: Frigo, Victoria (COE)
Sent: Monday, April 08, 2013 11:34 AM
To: 'barry@savinomiller.com'
Cc: Centorino, Joseph (COE)
Subject: (INQ 13-84) Lobbyist Clarifications

Mr. Miller,

This is in response to your questions about the exception in the lobbyist ordinance at Sec. 2-11.1 (s)(1)(b) that permits those who represent individuals or entities at publicly noticed quasi-judicial proceedings to appear without registering as lobbyists. Additionally, the Ethics Commission has opined that performing routine administrative tasks *without attempting to influence an official government decision* is not lobbying.

QUASI-JUDICIAL HEARINGS.

You are correct that an architect is not required to register as a lobbyist as long as his appearances on behalf of his client *are limited to quasi-judicial hearings* (for example, zoning hearings in which one person's or entity's rights are being adjudicated). Also, an architect need not register if he is *merely conducting routine administrative tasks* that do not involve any attempts to influence an official government decision.

INFLUENCING AN OFFICIAL GOVERNMENT DECISION.

You are also correct that meetings with board members or commissioners are examples of lobbying. However, the Ethics Commission has opined that *any attempt to influence anyone in the local government to make a decision regarding your client is a form of lobbying.*

WHY YOU MAY BE ASKED TO REGISTER AS A LOBBYIST.

Many local governments require architects to register as lobbyists because of the likelihood that an initial denial, or an approval with certain limitations, of a client's project may require the architect to attempt to influence a future government decision outside of a quasi-judicial hearing on behalf of the client. Additionally, general discussions regarding the description of a project or a street name, for example, may escalate into an architect's attempt to influence a decision on these topics.

Furthermore, since government officers and employees are forbidden to meet with unregistered lobbyists, prudence sometimes compels them to refuse to meet with anyone who has not registered. See Sec. 2-11.1 (s)(10) of the County Code.

WHO MUST REGISTER.

As to the individuals in your office who are required to register as lobbyists—only those who attempt to influence official government decisions. Those who merely communicate with government staff, and do not attempt to influence an official government decision, would not be required to register.

THE TECHNOLOGIES USED TO INFLUENCE A GOVERNMENT DECISION.

Any communication in any form is considered lobbying if it attempts to influence an official government decision outside of a quasi-judicial hearing. This includes, but is not limited to, face-to-face conversations, telephone calls, emails, faxes, texts, social media exchanges, or any other attempt to communicate and influence.

EXPENDITURE REPORTS.

Only registered lobbyists who have incurred direct expenses over \$25 on behalf of a client are required to file an expenditure report by July 1st for the previous calendar year. If no expenses were incurred, an expense report need not be filed.

If you have additional questions, please feel free to contact me.

Sincerely,

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From: Barry Miller [<mailto:barry@savinomiller.com>]

Sent: Friday, April 05, 2013 12:30 PM

To: 'ethics@miamidade.gov'

Subject:

Dear Ethics Commission:

I attended the ethics class on April 2 and have a few follow-up questions which stem from "Slide 15" (see attached):

1. It says that **"Architects are lobbyists.....except if appearing at quasi-judicial meetings or performing routine administrative**

functions on behalf of clients". At our class, quasi-judicial meetings were defines as a "political-administrative" body

(as opposed to a legal one) which adjudicates, and renders a decision which may or may not impact the client's project.

1. If that's right, and this is a "Public" meeting, does it mean that Architects are excepted from having to register as Lobbyists?

2. If so, then isn't is correct that the term lobbyist should apply to an Architect only if he/she meets privately with one of the

Board/Commission members who directly "adjudicates"?

• As an Architect is hired to design a project to meet city/county code and permitting requirements, isn't meeting with City/County staff

only performing routine administrative functions, thereby exempting the need to register as a lobbyist?

2. It also states that **“Lobbying is prohibited if a person is not properly registered whether it be a face-to-face meeting, a telephone conversation or an e-mail exchange”.**

- Which parties are required to be lobbyists if they send/exchange communications with City/County staff? The Principal, office staff, or anyone else inside the architect’s office who communicates with City/County staff?
- Or is that intended to target communications only between architects/staff and persons who adjudicate?

3. What’s the relationship between the expenditure forms and lobbying, or, if no expenditures are made, streets named after

someone, etc., and the discussion between parties only centers on project description and reviews with city/county staff or boards in a

“quasi-judicial” meeting, is it really Lobbying?

Thanks for your time in clearing these issues up, if possible!

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