

**Miami-Dade County
Commission on Ethics
& Public Trust**

19 West Flagler Street, Suite 820
Miami, FL 33130
frigov@miamidade.gov
phone: 305 350-0601
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May 23, 2007

Elizabeth Hernandez, Esq.
City of Coral Gables
405 Biltmore Way
Coral Gables, FL 33134

RE: Attorneys need not register as lobbyists *if* only appearing at properly noticed quasi-judicial hearings subject to the Jennings rule

REFERENCE N#: INQ 07-72

Dear Liz:

As we discussed today, the Ethics Commission does not require attorneys to register as lobbyists when they appear only at properly noticed quasi-judicial hearings that are subject to the Jennings rule.

Under those circumstances, all persons at the quasi-judicial hearing are exempt from registering as lobbyists because their presence and the benefit being sought are publicly noticed. Additionally, the Jennings rule prevents them from discussing the matter with decision-makers outside of the quasi-judicial hearing.

Under different circumstances, however, attorneys and other individuals may be required to register, particularly if they are speaking to staff prior to public hearings.

Please feel free to contact me if you have further questions.

Sincerely,

Victoria Frigo
Staff Attorney

Frigo, Victoria (COE)

From: Frigo, Victoria (COE)
Sent: Wednesday, May 23, 2007 12:12 PM
To: ehernandez@coralgables.com
Subject: Lobbyist registration not required at quasi-judicial hearings

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5/23/2007

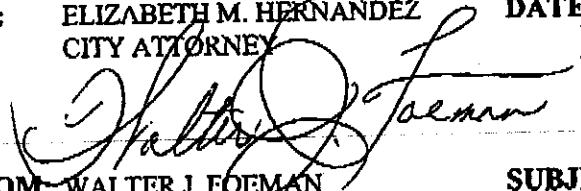
Victoria Frigo
Staff Attorney

CITY OF CORAL GABLES

- MEMORANDUM -

MAY 10 2007
RECEIVED
CITY ATTORNEYS
OFFICE

TO: ELIZABETH M. HERNANDEZ DATE: MAY 9, 2007
CITY ATTORNEY



FROM: WALTER J. FOEMAN
CITY CLERK

SUBJECT: LEGAL OPINION -
LOBBYIST REGISTRATION

Request is hereby made to provide this office with a legal opinion in connection with the below referenced matter:

Whether or not attorney's appearing before any city board, city staff, or city administration, in accordance with Ordinance No. 2006-11, are still required to register as lobbyist, and register each issue on behalf of each principal, notwithstanding the fact that they are not required to pay a fee.

In closing, since we have been receiving an inordinate number of calls, on the aforementioned matter, your immediate response is greatly appreciated.

- c: Lourdes Alfonsin, Assistant City Attorney
- Susan Franqui, Deputy City Clerk
- Billy Urquia, Business Application Developer

bx

Sec. 2-243. Lobbying.

(a) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Expenditure: A payment, distribution, loan, advance, reimbursement, deposit, or anything of value made by a lobbyist or principal for the purpose of lobbying.

Lobbyist: An individual, corporation, partnership, or other legal entity employed or retained, whether paid or not, by a principal who seeks to encourage the approval, disapproval, adoption, repeal, passage, defeat, or modifications of (a) any ordinance, resolution, action or decision of any city commissioner; (b) any action, decision, recommendation of the city manager, any city board or committee, including but not limited to quasi-judicial, advisory board, trust, authority, or council; or (c) any action, decision or recommendation of city personnel during the time period of the entire decision-making process on the action, decision or recommendation which foreseeably will be heard or reviewed by the city commission, or a city board or committee, including but not limited to quasi-judicial, advisory board, trust, authority, or council.

Person: Any individual, corporation, partnership or other legal entity or an agent or employee thereof.

Principal: The person which has employed or retained the services of a lobbyist.

(b) *Registration.* All lobbyists shall, before engaging in lobbying activities, register annually with the city clerk. Every person required to so register shall:

- (1) Register on a form prepared by the city clerk;
- (2) Pay an annual registration fee of \$150.00; and
- (3) State under oath the name and business address of the registrant; the name and business address of each principal which has employed or retained the registrant to lobby; the specific issue for which he/she has been employed or retained to lobby and the existence of any direct or indirect business association, partnership, or financial relationship with any employee of the city.

Any change to any information originally filed shall require that he/she file an amendment to the registration forms, although no additional fee shall be required for such amendment. He/she has a continuing duty to supply information and amend the forms filed throughout the period for which the lobbying occurs.

Separate annual registration shall be required for each principal represented on each specific issue. Such issue shall be described with as much detail as is practical, including but not limited to a specific description where applicable of a pending request for a proposal, invitation to bid, or public hearing number. No additional fee shall be required for each issue.

Each person who withdraws as a lobbyist for a particular client shall file an appropriate notice of withdrawal.

The registration fees required by this section shall be deposited by the city clerk for the purpose of recording, transcribing, administration, and other costs incurred in maintaining these records for availability to the public.

The city clerk shall waive the fee requirements of this section upon a finding of financial hardship, based upon the sworn statement of the applicant.

(c) *Exceptions to registration.* The following shall not be required to register under this section:

- (1) Any public official or city staff discussing matters relevant to their official duties;
- (2) Any person who only appears in his individual capacity for the purpose of self-representation without compensation or reimbursement, whether direct or indirect, to express support of or opposition to any item, including but not limited to those who are members of homeowner or neighborhood associations;
- (3) Any person requested to appear before the city commission, city board, committee, or any member thereof, or the city manager or city staff in a quasi-judicial proceeding or any agent, attorney, officer or employee or such person;
- (4) Any person under contract with the city who communicates with any public official or city staff regarding issues related only to the performance of their services under contract; and
- (5) Any person who has been designated and is so recognized by the city as a representative of a collective bargaining unit composed of city employees; foreign dignitary appearing in his/her official capacity; a person who owns, publishes or is employed by a newspaper, periodical, radio station, or other bona fide news media; a person who merely appears before, the mayor, city commission, city board or committee, the city manager or city staff in an individual capacity for the purpose of self-representation.

(d) *Reporting requirements.*

- (1) On October 1 of each year, lobbyists subject to the registration requirements of this section shall submit to the city clerk a signed statement under oath as provided herein listing the full name and business address of the lobbying entity; name of each of the entity's lobbyists; and all expenditures for the preceding calendar year with regard to the specific issue on which the lobbyist has been engaged to lobby. A statement shall be filed even if there have been no expenditures during the reporting period.
- (2) The city clerk shall keep a current list of registered lobbyists and the reports required under this section which shall be open to the public for inspection.

(e) *Investigation of violations and penalties.* The office of the city clerk shall submit a report to the city attorney and city commission as to those lobbyists who have failed to comply with the registration and/or the annual filing requirement of this section. The office of the city attorney shall investigate any person engaged in lobbying activities which is reported to be in violation of the registration or reporting requirements. A report of the city attorney's findings shall be provided to the city commission and to the alleged violator. If the city commission finds that a person is in violation of this section, that person may be reprimanded, suspended or prohibited from lobbying before the city commission, a city board, a city committee, or members thereof, city manager or city staff for a period not to exceed two years.

(Ord. No. 2006-11, § 2, 6-6-2006)