

MAH



Advisory Opinion Regarding the Interpretation of the Term "Lobbyist"

City of Chicago
Eugene Sawyer, Acting Mayor

Case Number 87116.A

Question No. 1

Board of Ethics
Harriet McCullough
Executive Director

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Is a lawyer who represents a client before the Zoning Board of Appeals and receives \$6,000 for his services required to register as a lobbyist?

Under the Governmental Ethics Ordinance (Chapter 26.2 of the Municipal Code of Chicago), an attorney who represents a client before the Zoning Board Appeals and receives \$6,000 for these services is not required to register as a lobbyist. Section 26.2-21 of the Ethics Ordinance states that:

"Each lobbyist whose lobbying-related compensation or expenditures aggregate \$5,000 or more in the preceding or current calendar year shall register and file reports with the Board of Ethics..."

As defined by Section 26.2-1(o), a lobbyist is:

"any person (i) who for compensation or on behalf of any person other than himself undertakes to influence any legislative or administrative action; or (ii) any part of whose duties as an employee of another includes undertaking to influence any legislative or administrative action."

To be classified as a "lobbyist", an attorney must accept compensation to influence legislative or



administrative action. Legislative action is defined by Section 26.2-1(n) as:

"the introduction, sponsorship, consideration, debate, amendment, passage, defeat, approval, veto or other official action or non-action on any ordinance, resolution, motion, order, appointment, application or other matter pending or proposed in the City Council or any committee or subcommittee thereof.

Since representation of a client before the Zoning Board of Appeals does not involve an attempt to influence legislative action, we must now determine whether such representation involves an attempt to influence administrative action.

Section 26.2-1(a) defines "Administrative action" as:

"a decision on, or proposal, consideration, enactment or making of any rule, regulation, or other official non-ministerial action or non-action by any executive department, or by any official or employee of an executive department, or any matter which is within the official jurisdiction of the executive branch." (emphasis added).

The Board of Ethics has been informed by the Department of Law that the term "executive department" refers only to those governmental units specifically designated as an "executive department" in the Municipal Code of Chicago.^{1/} The Zoning Board

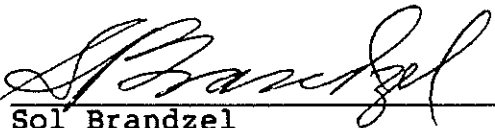
^{1/} The following agencies have been designated as "executive departments" in the Municipal Code of Chicago:

(1) Department of Law, (2) Department of Finance, (3) Department of Planning, City and Community Development, (4) Department of Human Services, (5) Department on Aging and Disability, (6) Department of Public Works, (7) Department of Water, (8)

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of Appeals, like all other Boards and Commissions, is not established as an "executive department". Thus, an attorney who represents a client before the Zoning Board of Appeals is not attempting to influence "administrative action" as contemplated by the Ethics Ordinance. We therefore conclude that an attorney who represents clients before this agency is not a "lobbyist" and is not required to report such representation to the Board of Ethics.

Approved by:


Sol Brandzel
Chairman

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Department of Aviation, (9) Department of Sewers, (10) Department of Health, (11) Department of Revenue, (12) Department of Police, (13) Fire Department, (14) Department of Inspectional Services, (15) Department of Streets and Sanitation, (16) Department of Economic Development, (17) Department of Consumer Services, (18) Department of Housing, (19) Department of Neighborhoods, (20) Department of Investigation, (21) Department of Cultural Affairs, (22) Department of General Services, (23) Department of Management Information Services, (24) Department of Personnel, (25) Department of Purchases, Contracts and Supplies, (26) Department of Zoning.

MEH

February 22, 1988

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Question No. 2

If a lawyer argues on behalf of his law firm that the Board of Ethics should adopt a certain position in an advisory opinion regarding the application of the lobbyist registration provisions of the Ethics Ordinance to lawyers and law firms, and he receives no extra compensation for his efforts, will this lawyer be required to register with the Board of Ethics as a "lobbyist"?

In a previous opinion (Case Number 87063.A), the Board of Ethics held that a law firm may file one Lobbyist Registration Form on behalf of all the partners and associates who engage in lobbying activities. If the firm files a Lobbyist Registration form in this manner, the firm will be acknowledged as the "lobbyist" pursuant to Section 26.2-1(o) of the Ethics Ordinance. This section states that a lobbyist is:

"any person (i) who for compensation or on behalf of any person other than himself undertakes to influence any legislative or administrative action; of (ii) any part of whose duties as an employee of another includes undertaking to influence any legislative or administrative action."
(emphasis added)



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Administrative action is defined in Section 26.2-1(a) as:

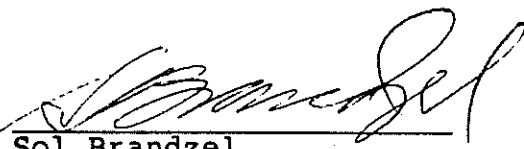
"a decision on, or proposal, consideration, enactment or making of any rule, regulation, or other official non-ministerial action or non-action by any executive department, or by any official or employee of an executive department, or any matter which is within the department, or any matter which is within the official jurisdiction of the executive branch." (emphasis added)

Only a governmental unit specifically designated in its enabling ordinance as an "executive department" constitutes an "executive department" for purposes of Section 26.2-1(a). A review of the Municipal Code of Chicago indicates that no board or commission has been established as an "executive department." Thus, an attorney appearing before the Board of Ethics is not attempting to influence "administrative action" as contemplated by the Ethics Ordinance. Accordingly, the law firm is not acting as a lobbyist when one of its members seeks to persuade the Board to adopt a certain position.

Please note, however, that even if the Board of Ethics had been classified as an "executive department," the law firm in this hypothetical would not have to register, since the law firm (i.e. the lobbyist) is not receiving any compensation and is not attempting to influence the decisions of the Board of Ethics on behalf of any person other than itself. Thus, such action would not, even if the Board were an "executive department," constitute

the type of activity which a "lobbyist" must disclose to the Board of Ethics.

Approved by:



Sol Brandzel
Chairman