

MEH



City of Chicago
Eugene Sawyer, Acting Mayor

February 29, 1988

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Suite 1320
205 West Randolph Street
Chicago, Illinois 60606
(312) 744-9660

[REDACTED]

Case Number 88013.A

Re: Lobbyist Registration

Dear [REDACTED]

The Board of Ethics has reviewed your request for an advisory opinion to determine whether the services provided by your law firm, [REDACTED], constitute lobbying under the Governmental Ethics Ordinance (Chapter 26.2 of the Municipal Code).

In your letter of January 15, 1988, you state that your law firm represents clients in various matters before the Zoning Board of Appeals, the Zoning Administrator, the Zoning Committee of the City Council, and the Department of Revenue. In the following discussion, the Board of Ethics will analyze Article 3 of the Ethics Ordinance in order to determine whether such activities constitute "lobbying".

Section 26.2-21 of the Governmental 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..." (emphasis added)

As defined by Section 26.2-1(o) of the Ordinance 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



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of whose duties as an employee of another includes undertaking to influence any legislative or administrative action.

Therefore, attorneys will be classified as "lobbyists" whenever they accept compensation to influence either legislative action or administrative action.

As defined by Section 26.2-1(n), "Legislative action" is:

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

In accordance with this definition, [REDACTED] engages in legislative lobbying whenever it attempts to influence a matter pending in the Zoning Committee of the City Council. Therefore, [REDACTED] will be required to register pursuant to Section 26.2-21 of the Ethics Ordinance, if the aggregate compensation or expenditures for this and other lobbying-related activities undertaken by the firm exceed \$5,000.

To determine whether [REDACTED] will be required to report its representation of clients before the Zoning Board of Appeals, the Zoning Administrator and/or the Department of Revenue, we must examine the definition of "administrative action" contained in Section 26.2-1(a). This section states that "administrative action" is:

"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 term "executive department" refers to governmental agencies specifically designated as an "executive department" in the

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Municipal Code of Chicago.^{1/} Since the Zoning Board of Appeals is not classified as an "executive department", and is not part of the executive branch, an attorney who represents a client before this agency does not influence "administrative action", and is therefore relieved of the obligation of reporting such representations to the Board of Ethics.

The Department of Zoning, on the other hand, was established as an "executive department" under the direction of the Zoning Administrator.^{2/} Therefore, attempts by your law firm to influence the official non-ministerial actions of the Zoning Administrator will be classified as administrative lobbying that must be reported to the Board of Ethics. Similarly, the Department of Revenue is an "executive department."^{3/} Consequently, attempts to influence the decisions of this Department will also constitute administrative lobbying that must be reported on your Lobbyist Registration and Disclosure Reports.

We hope that the analysis we have provided addresses your concerns regarding the Lobbyist Registration and Disclosure provisions of the Ethics Ordinance. Please note that the Board will address the questions you have raised regarding the attorney-client privilege and disclosure of fees, after we have reviewed all of the issues involved in this matter.

If you have any further questions, please do not hesitate to contact the Board at 744-9660.

Sincerely,


S. Brandzel
Chairman

1/ See the attached list of Executive Departments.

2/ See Chapter 194A of the Municipal Code and Amend. Council Journal; 12-18-81, p. 8805.

3/ See Chapter 10 of the Municipal Code of Chicago.