



**LOBBYIST REGISTRAR'S  
REPORT  
INFORMATION ONLY**

**Annual Report of the Lobbyist Registrar – 2008**

<b>Date:</b>	January 20, 2009
<b>To:</b>	City Council
<b>From:</b>	Lobbyist Registrar
<b>Wards:</b>	All
<b>Reference Number:</b>	

**SUMMARY**

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Attached is the Annual Report of the Lobbyist Registrar for the year 2008.

**Financial Impact**

This report has no financial impact.

**DECISION HISTORY**

The Toronto Municipal Code, Lobbying, § 140-33B(10), requires the Lobbyist Registrar to provide an annual report to Council.

**CONTACT**

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**SIGNATURE**

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Linda L. Gehrke, Lobbyist Registrar

**ATTACHMENTS**

Annual Report of the Lobbyist Registrar for the year 2008

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**ANNUAL REPORT OF THE LOBBYIST REGISTRAR  
FOR THE YEAR 2008**

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LINDA L. GEHRKE  
LOBBYIST REGISTRAR

# REPORT OF THE LOBBYIST REGISTRAR FOR THE YEAR 2008

## INTRODUCTION

This is my annual report as Lobbyist Registrar, which I am required to provide to Council under Chapter 140 of the Toronto Municipal Code, Lobbying (the Lobbying By-law).

The Office of the Lobbyist Registrar promotes and enhances the integrity of City government decision-making through public disclosure of lobbying activities and regulation of lobbyists' conduct. It provides and maintains a registry of lobbyists and lobbying activities on its website that may be searched by any member of the public, lobbyist or public office holder. This is the first municipal lobbyist registry in Canada and one of the busiest.

The Lobbying By-law sets out the following principles for the regulation of lobbying the City government's public office holders:

- (a) The City government's duty to make decisions in the public interest should not be impeded;
- (b) Open and unfettered access to City government is a vital aspect of local democracy;
- (c) Lobbying public office holders is a legitimate activity;
- (d) Public office holders and the public should be able to know who is attempting to influence City government;
- (e) Public disclosure of lobbying activity and standards of conduct for lobbyists are important to the integrity of City government decision-making; and
- (f) A system for the registration of lobbying activity and the regulation of the conduct of lobbyists should not impede access to the City government.

The duties and authority of the Lobbyist Registrar (the Registrar) are set out in the *City of Toronto Act, 2006* (COTA) and the Lobbying By-law. The Registrar is responsible for performing in an independent manner the functions assigned by City Council with respect to the registry. The Registrar reports directly to Council and is accountable to Council. The duties of the Registrar include maintaining the registry system; enforcing the Lobbying By-law; providing advice, opinions and interpretation of the Lobbying By-law; conducting inquiries and investigations to determine whether contraventions of the Lobbying By-law have occurred; advising Council on lobbying matters and recommending improvements and amendments to the Lobbying By-law; and providing an annual report to Council and any periodic reports and information as the Registrar considers appropriate.

## **HISTORY OF THE REGISTRY**

### **2005**

In her report, *Toronto Computer Leasing Inquiry*, the Honourable Madam Justice Denise E. Bellamy, Commissioner, made findings recommending that a lobbyist registry be established by the City of Toronto. Madam Justice Bellamy's inquiry heightened awareness of the prevalence of lobbying. City councillors began to maintain a list of lobbyists who contacted them.

### **2006**

Justice Bellamy's recommendations led to the enactment of provisions in the *City of Toronto Act, 2006* (COTA) and the Lobbying By-law to establish a lobbyist registry.

### **2007**

Council adopted the Lobbying By-law, establishing the first municipal lobbyist registry in Canada, and appointed Marilyn Abraham as its first Lobbyist Registrar.

### **2008**

The Office of the Lobbyist Registrar launched its online registry in February 2008.

Marilyn Abraham resigned and Linda Gehrke was appointed Lobbyist Registrar by Council in June 2008.

Council amended the Lobbying By-law in July 2008, changing the way in which communications with public office holders are reported. Communications with public office holders must now be reported within three business days after communication. Before July 2008, lobbyists provided the names of the public office holders they intended to lobby when they registered. As a result of the July 2008 amendments, this information was removed from the registry.

Further amendments in July 2008 simplified the way in which government funding, non-government contributions and committees are reported, and suspended the requirement for non-profit community services to register when they apply for a grant, award or financial benefit.

In December 2008, Council amended the by-law to remove the requirement for non-profit community services to register when they apply for a grant, award or financial benefit.

On December 17, 2008, the registry launched changes that made it easier to use and more accurate. Lobbyists may now register more than one grass roots campaign for a

particular subject. The date a registration was first approved now appears in the public online registry.

## **STAFF**

In addition to the Registrar, staff of the Lobbyist Registrar are: Martin Herzog, Acting Manager, Lobbyist Registry; Barbara Broden and Geoffrey Gallagher, Lobbyist Registry Advisors; and Betty Au, Administrative Assistant. Staff maintain the registry, review and verify returns for acceptance, review registrations for compliance and conduct outreach and education, and provide help and information to lobbyists, the public and public office holders.

Subject to budget approval, 2.5 staff positions will be added in 2009 to establish an investigative unit (an Inquiry and Investigations Counsel, a Lobbyist Compliance Investigator and a part-time Administrative Assistant) in order to meet the compliance investigation requirements of the Lobbying By-law.

## **BUDGET**

The Lobbyist Registrar's total operating budget in 2008 was \$711,200, of which \$624,280 was allocated to staff salaries and benefits. Actual expenditures at year-end were \$612,065, of which \$556,328 was expended on staff salaries and benefits. The remaining expenditures were for services and rents, interdivisional charges, materials and supplies, equipment and contributions to reserves.

My budget request for 2009 is for a total of \$942,000. \$217,000 of this reflects staff for a new investigations unit required to implement the compliance investigation requirement of the Lobbying By-law. The remainder of the increase is due to consumer price index and merit increases.

## **OFFICE FACILITIES**

The Office of the Lobbyist Registrar is located at 112 Elizabeth Street on the ground floor. It is open from 9:00 a.m. to 4:00 p.m. daily to members of the public, lobbyists and public office holders. We provide a workstation to visitors where our staff can help them to register or to search the public registry.

The Ombudsman has opened offices in our building and the Integrity Commissioner will be moving to our building in 2009. We anticipate that with three accountability officers in the same building, we will be able to better co-ordinate our activities.

## REGISTRATIONS

The online lobbyist registry was launched in February 2008. Thus, the statistics provided below are for the months of February through December 2008.

The Registrar may refuse to accept a return that does not comply with the requirements of the by-law; suspend or revoke a return that is subsequently found not to comply; and remove a return where the registrant fails to provide the Registrar with information that is required. When a return is removed from the registry, it is deemed not to have been filed.

The following statistics are for the period from February to December 31, 2008:

Total Registrations <sup>1</sup> Submitted	1,503
Registrations refused	247
Registrations under review at year-end	42
Registrations accepted (including changes)	1,214
Accepted updates/changes	187
Withdrawn after approval	5
Suspended by Registrar	0
Revoked by Registrar	0
Removed by Registrar	0
Closed	15
Registrations active at year-end	1,007

## ADVICE AND INTERPRETATION, INFORMATION AND ASSISTANCE

Registry staff provide advice and interpretation, information and assistance to lobbyists, public office holders and members of the public to register and search the registry. The following statistics indicate the number of calls in which the types of services registry staff provided in 2008:

Advice and interpretation	266
Assistance to register	760
Assistance to search the registry	36

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<sup>1</sup> Registrations are subject matter registrations.

Interpretation and advisory bulletins provide guidance to lobbyists, public office holders and the public. Interpretation bulletins focus on the interpretation of the Lobbying By-law. Advisory bulletins provide procedural guidance to lobbyists regarding their obligations to register and provide information about their lobbying activities. Both may be found on the registry's website. A list of the interpretation bulletins and advisory bulletins posted on the website in 2008 follows:

### **Interpretation Bulletins**

- Applications for Approvals and Licences
- BIAs (Business Improvement Areas)
- Consultations
- Grant Applicants
- Negotiating Settlements and Claims
- Not-for-profit Organizations
- Planning & Development Applications
- Pre-Registration and Post-Registration Requirements
- TABIA (Toronto Association of Business Improvement Areas)

### **Advisory Bulletins**

- Disclosing a Subject Matter
- Registering Planning & Development Subject Matters

Recently, I worked with the Integrity Commissioner and the Director, Council & Support Services to develop an information bulletin on donations to councillor-sponsored community events. This bulletin will be posted on the websites of the City, the Integrity Commissioner and the Lobbyist Registrar.

I answered a number of requests for advice and interpretation in 2008. Examples of advice and interpretation that I have given are provided below:

- *Are invitations to events by lobbyists prohibited?*

The Lobbyists' Code of Conduct, which is part of the Lobbying By-law, prohibits lobbyists from undertaking to lobby by offering or giving gifts, meals, trips or favours of any kind. There were several instances of invitations extended by lobbyists to events involving entertainment and the provision of food and drink. In those cases that were brought to my attention, I have advised that such invitations were prohibited and the lobbyists withdrew their invitations. See APPENDIX I.

- *What is the status of unions under the Lobbying By-law?*

The Lobbying By-law exempts communications by listed employee or labour groups when they are representing employees of the City or some local boards, and communicating about labour relations matters.

- *Does lobbying for appointments to City agencies, boards and commissions require registration?*

Lobbying public office holders for an appointment to a City agency, board or commission requires registration before the lobbying takes place.

- *Are informal gatherings with friends where lobbyists are present together with public office holders subject to the by-law?*

Whether registration is required depends on the circumstances of the event and the subjects discussed. Casual conversations at a public gathering (such as a charitable event, community or civic event, or festival) that do not materially advance a matter that is defined as “lobbying” do not require registration.

- *What is a public office holder’s responsibility to verify that a lobbyist is registered?*

The Lobbying By-law does not require a public office holder (a member of Council or their staff, members of the Board of Health, City employees and members and staff of certain local boards) to verify if a lobbyist is registered. If the public office holder is aware that a person is seeking to lobby and is not registered, this may trigger obligations under their respective Code of Conduct.

- *What questions should public office holders ask persons who write to or seek to or speak with a member of Council?*

As noted above, public office holders are not required to verify whether a person they are speaking to is a registered lobbyist. The staff or member may wish to ask about the subject that the person wishes to discuss, whom they represent and whether they are registered with the lobbyist registry. If the staff or member is unsure or thinks that registration may be required, they may refer the caller or writer to the registry or contact us for advice.

- *How do I verify if someone is registered?*

The registry’s public website allows members of the public, lobbyists and public office holders to search the registry. We are presently working to improve the search capacity of the website, and expect to launch the improved search capacity in mid-2009.

## **EDUCATION AND OUTREACH**

An important part of the Registrar’s duties in 2008 was to conduct education and outreach activities. My predecessor, Marilyn Abraham, provided a number of presentations to public office holders and lobbyists. During my tenure, I and my staff have met and made presentations to public office holders as well as lobbyists. This included meetings with members of Council, Division Heads and City officials. I also

held consultation sessions with the non-profit community services sector about their status under the registry system.

## **COMPLIANCE INVESTIGATIONS AND INQUIRIES**

The Registrar is required to enforce the Lobbying By-law. She may investigate or inquire into requests about compliance by Council, members of Council and members of the public, including the Registrar in order to ensure compliance, and may exercise the powers of a commission of inquiry under the *Public Inquiries Act*. The Registrar is obliged to cease investigating and refer a matter to the appropriate authorities where there are reasonable grounds to believe that any other Act or the *Criminal Code of Canada* has been contravened. At the end of an investigation, the Registrar determines whether there has been compliance with the Lobbying By-law. The Registrar may impose certain administrative penalties and may report to Council. The Registrar may commence a prosecution under the *Provincial Offences Act* where there are reasonable grounds to believe that the by-law has been contravened.

Since commencing my duties as Lobbyist Registrar in August 2008, I have conducted a number of investigations and inquiries at the request of public office holders, lobbyists and members of the public. I have instituted a case management system for compliance investigations and inquiries, which is based upon the case management system used by the Auditor General's Fraud and Waste Management Hotline. I have developed a Compliance Investigations Procedure, which is appended to this annual report as APPENDIX II. The Compliance Investigations Procedure will be posted on the website to inform the members of the public, public office holders and lobbyists about the procedures that apply to compliance investigations. I will be soliciting comments on it.

A summary of completed investigations and inquiries is provided in an appendix to this annual report. See APPENDIX I – Summary of Completed Investigations and Inquiries. The following statistics capture the status of investigations and inquiries I have conducted from August 5, 2008 to December 31, 2008.

### Investigations and Inquiries

Opened	23
Closed	17
Active on December 31, 2008	6

It will be seen from the Summary of Completed Investigations and Inquiries (APPENDIX I) that there were several requests related to invitations by lobbyists to members of Council that involved offers of entertainment, food and drink. Such invitations are contrary to the Lobbyists' Code of Conduct and the acceptance of them by members of Council may also be contrary to the Code of Conduct for members of Council.

Another recurring compliance issue is that of unregistered lobbying. The Lobbying By-law requires a lobbyist to register as a lobbyist and to register a subject matter before

lobbying. Lobbying without being registered is prohibited. A new interpretation bulletin addressing this issue was posted on the registry's website. Several of my investigations have been concerned with allegations that unregistered lobbying have occurred. Policy issues that came to Council for decision such as in-store packaging have generated investigations of reports of lobbying by unregistered lobbyists. It should be noted that submissions to Council and committee meetings and public consultation processes would not require registration.

In general, the approach I have taken in this first year of the operation of the registry is one that recognizes that lobbyists may not yet be familiar with all of the requirements of the by-law. Where a lobbyist has complied with the by-law promptly upon being informed of a concern about compliance, I have considered the matter to be resolved. To date, I have not commenced any prosecutions for offences against the Lobbying By-law, and most files have been closed upon the lobbyist coming into compliance with the by-law by registering or correcting the information in their registration. However, where a person knowingly flouts or ignores the requirements of the Lobbying By-law, steps must be taken to enforce the registry system and Lobbyists' Code of Conduct; otherwise, the lobbyist registry will become ineffective.

Investigations must be conducted confidentially, fairly and effectively. At the very least, a report to Council may prove to be embarrassing to the parties involved and damaging to their reputations. The potential consequences of a contravention of the by-law include prosecution for an offence carrying a fine of up to \$25,000 on first conviction and of up to \$100,000 on each subsequent conviction. I anticipate that the Registrar may be required to conduct prosecutions for contraventions of the Lobbying By-law. In some cases, the exercise of the Registrar's powers under the *Public Inquiries Act*, referrals for criminal prosecution or for violations of other Acts may be required. An investigative unit is required to carry out these responsibilities effectively.

## **ADMINISTRATIVE REVIEW OF REGISTRATIONS**

In September 2008, registry staff reviewed all registrations for compliance with the new provisions in the by-law requiring a report within three business days after lobbying occurs. Letters were sent to the lobbyists for all registrations where there had been no reported lobbying activity since July 2008, when the new provisions came into effect. A number of updates to registrations resulted from this initiative.

## **AMENDMENTS TO THE LOBBYING BY-LAW**

An important part of the Registrar's duties under the Lobbying By-law is to advise Council on lobbying matters and recommend improvements or amendments to the Lobbying By-law. I have given advice, opinions and interpretations pertaining to the administration, application and enforcement of the Lobbying By-law on request. In addition, I have assisted with the development of interpretation bulletins in such areas as donations to councillor-sponsored community events.

- *Non-profit community services*

In July 2008, Council suspended the requirement for non-profit community services to register when applying for grants, awards or financial benefits. Council asked the Registrar to consult with the sector and make recommendations on whether the registration process could be simplified for them or whether the sector should be exempted from registering. I consulted with the sector and recommended that the non-profit community services be exempted from registering when they apply for grants, awards and financial benefits. Transparency is already present in the grant application process. The additional administrative burden caused by the requirement to register was onerous for the community services, which operate with very limited administrative resources to provide needed services to communities throughout the City.

## **ANTICIPATED ACTIVITIES IN 2009**

### **1. Developing a Framework for Accountability Officers**

Council asked the City Manager, in consultation with the accountability officers, the City Solicitor and City Clerk, to develop an overview framework for the accountability positions, setting out the legislated provisions and any governance, policy and support mechanisms required to effectively carry out the functions and ensure independence. In my view, generally, provisions for accountability and independence should be consistent for all of the accountability officers. The principles of independence and accountability should be reflected in COTA and the accountability officers' by-laws. Provisions related to the status of independence including guarantees with respect to term of office, security against dismissal except for cause and administrative independence should be provided to all accountability officers, including the Lobbyist Registrar. Reporting provisions, including the Council Procedures By-law, should reflect the direct reporting relationship to Council.

### **2. Improvements to the Online Registry**

Members of Council, lobbyists and the public reported that the online registry is not easy to use. Council granted the registry a capital budget of \$500,000 for 2009. The registry is in the midst of a number of improvements to the accessibility and ease of use of its website, which we hope to achieve in 2009. These include:

- Improved ability to search the registry, including the date of communication, corporations and organizations, and free word (“wild card”) searches;
- Improved look and feel of the registry website, making it easier and more pleasant to use and more reflective of the status of the Office of the Lobbyist Registrar as an independent accountability office; and
- Online tutorials and help for lobbyists and registry users.

The Office of the Lobbyist Registrar will develop appropriate electronic records retention policies for the information that we collect and post in the online registry.

### **3. Advice and Interpretation; Information and Assistance with Registering and Searching the Registry**

Registry staff will continue to provide advice and interpretation, and assistance with registering and searching the registry to members of the public, lobbyists and public office holders about the registry.

The Office of the Lobbyist Registrar will add to and improve the advisory and interpretation bulletins posted on its website. New bulletins will address topics including donations to councillor-sponsored community events and elections, in relation to lobbying.

### **4. Education and Outreach**

By providing education about using the registry online, the registry will improve its ability to meet the needs of the public, lobbyists and public office holders. The registry will develop and provide online tutorials and help with registering and searching the registry. In-person sessions for lobbyists on registering and complying with their obligations and sessions for public office holders will also be provided. I will continue to seek opportunities to consult and make presentations about the registry system and Lobbyists' Code of Conduct to public office holders, lobbyists and members of the public.

The Office of the Lobbyist Registrar will improve the effectiveness of its website as a means by which members of the public, lobbyists and public office holders can make comments about the registry as well as obtain information about lobbying. As one example, I intend to post the new Compliance Investigations Procedure on the website for information and invite comments about it.

### **5. Advice to Council on Lobbying Matters and Recommending Improvements and Amendments to the Lobbying By-law**

The City of Toronto's Lobbying By-law is one of the most complex and detailed in Canada. This may be partly due to the nature and variety of activities in which the City engages. I will be reviewing the by-law to ensure that it is accessible and understandable to the public, lobbyists and public office holders; and that it is consistent with the principles in the preamble to the by-law. This may result in recommendations for amendments to the by-law.

There are a number of issues that may result in recommendations for amendments to the Lobbying By-law in 2009, as follows:

- *Framework for Accountability Officers*

The overview framework for the City's accountability officers, about which Council has requested a report from the City Manager, may lead to changes to the Lobbying By-law, as discussed in the section above on that topic.

- *Written Communications*

At its meeting of January 5, 2009, Executive Committee referred the issue of the status of written communications under the by-law and councillors' obligations in relation to such communications to the Integrity Commissioner and Lobbyist Registrar for report and recommendations after they meet with councillors to solicit their views.

- *Campaign Contributions and Fundraising by Lobbyists*

Whether lobbyists, their clients or employers may fundraise for and donate to campaigns is not explicitly addressed by the Lobbying By-law. Campaign contributions by lobbyists are subject to the reporting provisions in the *Municipal Elections Act* (MEA) and are permitted under the Code of Conduct for Members of Council. It may be advisable to make explicit in the Lobbying By-law that campaign contributions by lobbyists are permitted, so long as they comply with their other obligations under the Lobbyists' Code of Conduct to ensure consistence with the Members' Code of Conduct and MEA.

- *Enforcing Compliance*

There are no explicit administrative penalties that the Registrar may impose on a lobbyist who fails to register or who contravenes the Lobbyists' Code of Conduct. It appears to be anticipated that in such circumstances, the Registrar may report the matter to Council or commence a prosecution under the *Provincial Offences Act*. COTA, s. 166 provides that the Registrar may impose conditions for registration but the Lobbying By-law does not explicitly grant this authority to the Registrar. I will be reviewing the by-law's approach to enforcement and may make recommendations in the coming year about the most effective and practical way to enforce compliance with the duty to register and the Lobbyists' Code of Conduct.

## **6. Investigating and Enforcing Compliance**

The Registrar is responsible for enforcing the Lobbying By-law and for investigating and making determinations about compliance with the by-law. The nature, volume, complexity and potential consequences of the Registrar's investigations require that there be an investigations unit within the Registrar's office. Therefore, I have

included an investigative unit in the registry's organization chart and in the budget for the year 2009. I have requested a budget increase<sup>2</sup> in order to implement the compliance investigation requirement of the Lobbying By-law. I plan to launch the registry's Compliance Investigations Procedures and to establish an investigations unit in May of 2009. As noted above, I will be reviewing the Lobbying By-law and may make recommendations on enforcing compliance with the duty to register and the Lobbyists' Code of Conduct.

## **7. Office Facilities**

In 2009, I will work to ensure a safe and healthy workplace that is adequate for the operations of the registry.

## **CONCLUSION**

Much has been accomplished in the first year of the registry. While there remain improvements to be made, a solid foundation has been established for informing the public and regulating the conduct of lobbyists who lobby the City's public office holders. The challenges for the coming year include establishing a framework for accountability officers at the City that will ensure their effectiveness and independence; improving the accessibility and effectiveness of the online registry; and ensuring that lobbyists comply with the registry system and Lobbyists' Code of Conduct.

In closing, I wish to acknowledge the welcome, help and good will extended to me by the Mayor and City Council, City officials and staff of numerous divisions, including City Clerk's Office, Legal Services, Information & Technology, Strategic Communications and Facilities & Real Estate. I would like to thank my fellow accountability officers, past and present, for their collegiality and support. Most of all, I offer my thanks and appreciation to the staff of the Office of the Lobbyist Registrar, who have worked diligently to provide this important service to the public.

All of which is respectfully submitted to Council,

Linda L. Gehrke  
Lobbyist Registrar  
January 2009

## **APPENDICES**

APPENDIX I – Summary of Completed Investigations and Inquiries

APPENDIX II – Compliance Investigations Procedure

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<sup>2</sup> In my 2009 Operating Budget submission I have requested \$217,000 to implement the compliance investigation requirement of the Lobbying By-law.

## Summary of Completed Compliance Investigations and Inquiries

### Invitations to Entertainment

**Lobbyists shall not undertake to lobby in a form or manner that includes offering, providing or bestowing entertainment, gifts, meals, trips or favours of any kind. [Lobbyists' Code of Conduct, § 140-42]**

A member of Council requested advice about an invitation to an event at a race track by a lobbyist. The invitation included a hospitality buffet and viewing of an international thoroughbred race. The invitation had gone to all members of Council. The Registrar wrote to the member and to the lobbyist, advising that this invitation contravened the Lobbyists' Code of Conduct. This was resolved when the lobbyist withdrew the invitation.

Two members of Council requested advice on whether to attend an evening reception with hors d'oeuvres followed by a theatre presentation. The invitation had gone to all members of Council. The Registrar advised the members and the lobbyist that the invitation would appear on its face to contravene the Lobbyists' Code of Conduct. This was resolved when the lobbyist withdrew the invitation.

A member of Council requested advice about an invitation by a client of a lobbyist to a social event. The registrar advised that the prohibition against gifts and entertainment applies only to lobbyists. The Registrar referred the member of Council to the Integrity Commissioner for advice on whether the member of Council should attend the event.

A lobbyist asked for advice on whether they could invite members of Council free of charge to a breakfast session on urban issues and the federal election. The Registrar advised the lobbyist that an invitation of this kind would contravene the Lobbyists' Code of Conduct.

### Reporting Lobbying Activities

**Effective July 7, 2008, all registered lobbyists must report lobbying activities within three business days after the communication occurs.**

Members of Council contacted the Registrar regarding three lobbyists who reported communicating with them. The members of Council had no record of any communication with the lobbyists. The Registrar wrote to the lobbyists asking for further information about the reported communications. The lobbyists advised that these were inadvertent mistakes resulting from a misunderstanding about the new rules for reporting lobbying after it has occurred. These rules came into effect in July 2008. The complaints were resolved by the lobbyists removing the names of the public office holders with whom they had not communicated.

A member of Council requested an inquiry into communications by a lobbyist that were not reported. The Registrar asked the lobbyist for information about his communications with public office holders. This complaint was resolved when the lobbyist provided information to the registry about communications with public office holders.

On November 3, 2008, a registered lobbyist attempted to update several registrations to report communications with public office holders, in response to an email that had gone to all registered lobbyists who had not reported lobbying since July 2008. On November 3, 2008, the registry was closed for a planned system upgrade. Lobbyist Registry Advisors advised the lobbyist to return to the registry to update the registrations. The Registrar wrote a reminder of the obligation to report communications with public office holders to the lobbyist on November 10, 2008. On November 14, 2008, the lobbyist completed the required updates.

A lobbyist, who received the email to all registered lobbyists who had not reported lobbying since July 2008, reported difficulty updating the registry regarding his lobbying activities. This matter was resolved with assistance by a Lobbyist Registry Advisor.

### **The Requirement to Register**

#### **Lobbyists must register both themselves and a subject matter before they lobby.**

The lobbyist's registration proposed a retroactive date for registration. The Registrar advised the lobbyist that retroactive registration is not permitted under the by-law. The Registrar requested further information about the dates of and participants in communications with public office holders. This was resolved when the lobbyist revised the registration to reflect a start date that was current with the registration.

A lobbyist advised the registry that they had failed to register before meeting with a member of Council about a proposed redevelopment project. The Registrar permitted the lobbyist to register, in view of the lobbyist's lack of experience with the registry and the fact that the registry has been in existence for less than one year.

A newspaper article reported that a lobbyist had been lobbying members of Council on the matter of in-store packaging, during the period before it was to be considered by Council. The lobbyist had registered as a lobbyist but had not registered a subject matter and had not reported any communications with public office holders. After the Registrar wrote to the lobbyist, the lobbyist filed a proposed subject matter for lobbying regarding in-store packaging and provided information to the registry regarding communications with public office holders that had occurred. The Registrar permitted the lobbyist to register the subject matter and waived the prior non-compliance, because he had responded quickly to the request to bring his registration into compliance, he lacked prior experience with the registry and the registry has been in existence for less than one year.

# **Office of the Lobbyist Registrar**

## **Compliance Investigations Procedures**

### **1. Definitions.**

- A. The definitions set out in §140-1 of the Toronto Municipal Code, Lobbying (the Lobbying By-law) apply to these procedures.
- B. “Requestor” is defined as City Council, a member of Council or a member of the public who makes a request for an investigation or inquiry about compliance with the registry system or Lobbyists’ Code of Conduct.
- C. “Respondent” is an individual or organization who is the subject of a request about compliance with the registry system or Lobbyists’ Code of Conduct.

### **2. Investigation or inquiry.**

- A. A request for an investigation or inquiry about compliance with the registry system or Lobbyists’ Code of Conduct, as set out in this chapter, may be made by City Council, a member of Council or a member of the public, including the Registrar.
- B. The Registrar may initiate an investigation or inquiry based upon:
  - (1) The information in the registry system and the recommendation of the Registrar’s staff; or
  - (2) Information received from a member of the public, a member of Council or information contained in the lobbyist registry.
- C. The Registrar may initiate an investigation or inquiry based upon information received from a member of the public, a member of Council or information contained in the lobbyist registry.
- D. The Registrar may accept an anonymous request, if there are sufficient grounds to give the Registrar reason to believe that a breach of the Lobbying By-law has taken place.

### **3. Information in request.**

- A. A request about compliance with the system of registration for lobbyists or the Lobbyists’ Code of Conduct, as set out in this chapter, from a member of Council or the public shall be made in writing to the Registrar.
- B. The request shall include the information and documents relevant to the request and any forms, including an affidavit that the Registrar may require for this purpose.

C. The requester shall provide additional information and documentation as required by the Registrar.

#### **4. Confidentiality.**

The Registrar conducts investigations of matters relating to compliance with the registry and the code of conduct for lobbyists in private, unless:

- A. The law, including this chapter, the *City of Toronto Act, 2006* and the *Public Inquiries Act*, requires or permits disclosure of information; or
- B. The Registrar deems it necessary to disclose information in order to further the investigation of the matter.

#### **5. Refusal to investigate.**

The Registrar may refuse to investigate or inquire into a request where, in his or her opinion, one or more of the following circumstances exist:

- A. The request does not pertain to compliance with the system of registration or with the Lobbyists' Code of Conduct or is otherwise outside the jurisdiction of the Registrar.
- B. The subject matter of the request is trivial, frivolous or vexatious.
- C. There are other adequate remedies available to the requester under the law or existing administrative practices that would more appropriately resolve the request, other than the laying of information for an offence under the Toronto Municipal Code, Chapter 140.
- D. In all the circumstances of the case, no further investigation is necessary.
- E. Dealing with the matter would serve no useful purpose because of the length of time that has elapsed since the matter arose.

#### **6. Criminal allegations.**

If, on its face, the request concerns an allegation of a criminal nature consistent with the *Criminal Code of Canada* or an offence under any other Act, the requester shall be advised that if the requester wishes to pursue the allegation, the requester must pursue it with the appropriate police force.

#### **7. Suspension and referral to appropriate authorities.**

As required by section 169(7) of the *City of Toronto Act, 2006*, if at any time during the investigation or inquiry the Registrar determines that there are reasonable grounds to believe that there has been a contravention of any other Act or of the *Criminal Code of Canada*, the

Registrar shall immediately refer the matter to the appropriate authorities and suspend the inquiry until any resulting police investigation and charge have been finally disposed of, and shall report the suspension to City Council.

**8. Disclosure.**

- A. If the Registrar decides to proceed with investigation of a request, the Registrar shall inform the respondent of the substance of the allegations and provide an opportunity to the respondent to respond to the allegations.
- B. If the Registrar agrees to accept an anonymous request, the information disclosed shall be revised to the extent necessary to preserve anonymity.

**9. Investigation.**

- A. The Registrar may conduct such additional investigation or inquiry as in his or her opinion is necessary to determine whether there has been compliance with the registration system and the lobbyists code of conduct.
- B. The Registrar may speak to anyone who has information relevant to the request and request further information from the requester, the respondent(s) or from anyone who may have information relevant to the request.
- C. Under subsection 169(2) of the *City of Toronto Act, 2006*, in conducting an investigation or inquiry, the Registrar may exercise the powers of a commission under Parts I and II of the *Public Inquiries Act*, in which case those Parts apply to the inquiry as if it were an inquiry under that Act

**10. Interim and final reports.**

- A. Upon completion of an investigation or inquiry and prior to making a final report, the Registrar may provide an interim report with any proposed findings and sanctions to the respondent, together with an opportunity to comment either in person or in writing on the proposed findings and any recommended sanctions.
- B. The Registrar shall provide the final report in writing with reasons to the respondent.
- C. The Registrar may provide the final report to City Council and to the requester.
- D. If the Registrar makes a report to City Council, the Registrar may disclose in the report such matters as in the Registrar's opinion are necessary for the purposes of the report.
- E. The Registrar's final report shall contain all findings, decisions, orders and recommendations made by the Registrar in relation to the investigation or inquiry, together with reasons.

F. In the final report, the Registrar may make any or all of the following orders:

- (1) Refusing to register a return;
- (2) Suspending or revoking a registration; or
- (3) Removing a return from the registry.

G. The Registrar may publish any orders made on the Registrar's website.

## **11. Prosecutions.**

- A. Despite any provision in this article, the Registrar may commence a prosecution where the Registrar has reasonable grounds to believe that there has been a contravention of the Lobbying By-law.
- B. If the Registrar commences a prosecution for an offence under the Lobbying By-law, the Registrar may suspend or otherwise terminate an investigation inquiry and is not required to provide any reports under § 140-59.
- C. The Registrar may include information on prosecutions in any periodic general reports to Council on his or her activities, subject to compliance with any confidentiality requirements.