
**REPORT TO COUNCIL ON AN INQUIRY:
UNREGISTERED LOBBYING ABOUT A CASINO IN
TORONTO**

LINDA L. GEHRKE
LOBBYIST REGISTRAR

OCTOBER 18, 2012

Background

On May 14, 2012, Executive Committee considered Agenda Item EX20.15, a member's motion proposing a city-wide referendum on whether to allow a permanent casino in the City of Toronto. City Council had referred this item to Executive Committee on April 10 and 11, 2012. Executive Committee referred the item to the City Manager, with the request that he consult with the Ontario Lottery and Gaming Corporation (OLG) and any necessary provincial officials on their ongoing process for the selection of future casino locations in the Greater Toronto Area, and report back to Executive Committee at its October 9, 2012 meeting on the provincial process and the pros and cons of hosting a commercial casino in Toronto.

MGM made a presentation on its vision for a casino complex in Toronto to Executive Committee regarding item EX20.15. During that presentation, MGM's Senior Vice-President of Global Gaming Development undertook to provide a list of the people at City Hall whom they had met before Executive Committee met to consider this item. Media reports had stated that MGM executives visited the Mayor and other members of Council to express their interest in a proposed casino in Toronto before Executive Committee met.

MGM was not registered in Toronto's lobbyist registry when Executive Committee met on May 14, 2012. On May 25, 2012, MGM filed a lobbyist registration.

The Inquiry

As a result of the statements MGM made in Executive Committee and media reports, I commenced an inquiry to determine if MGM had lobbied without being registered in the period before the May 14, 2012 Executive Committee meeting, contrary to §§ 140-10, 140-21, 140-22 and 140-23 of the Lobbying By-law (Chapter 140, Toronto Municipal Code). These sections of the Lobbying By-law require in-house lobbyists to register before lobbying public office holders and to report all lobbying within three business days.

In response to a letter from Inquiries and Investigations Counsel, MGM's counsel confirmed that unregistered lobbying had occurred. MGM was the client of a registered consultant lobbyist firm. The consultant lobbyist arranged visits by MGM with members of Council. MGM was not familiar with Toronto's Lobbying By-law and thought that since the consultant lobbyist had registered, MGM did not need to register.

Findings

Based upon the information provided by MGM, I found that MGM lobbied members of Council without being registered and failed to report their lobbying activities within three business days, as required by the Lobbying By-law.

MGM communicated with members of Council before Executive Committee met on May 14, 2012 to consider item EX20.15, a matter that had been referred to Executive Committee and concerned MGM's interest in establishing a casino in Toronto.

Unregistered Lobbying about a Casino in Toronto

The Lobbying By-law defines lobbying as including communication with a public office holder about a matter that comes before Executive Committee for decision. MGM executives were acting as in-house lobbyists for MGM when they met with members of Council to discuss a proposed casino in Toronto. Even though they were clients of a registered consultant lobbyist, they were required to register before they met with members of Council, and they were required to report their meetings with members of Council within three business days after they occurred.

Action Taken

The Lobbyist Registrar may refuse to accept or may revoke a registration or update that does not comply with the requirements of the by-law, including the requirement to register and update registrations within the time limits. In addition, failure to comply with the by-law, including the requirement for timely registrations and updates, is an offence under the *Provincial Offences Act*, and may also result in a report to Council by the Registrar. For a discussion of these requirements, see the Office of the Lobbyist Registrar Interpretation Bulletin, *Pre-Registration and Post-Registration Requirements* [<http://www.toronto.ca/lobbying/pdf/interpretation-bulletin-pre-post-registration.pdf>].

The Office of the Lobbyist Registrar Interpretation Bulletin, *Late Registrations and Updates* [[http://www.toronto.ca/lobbying/pdf/interpretation%20bulletin_late_registrations_updates.pdf](http://www.toronto.ca/lobbying/pdf/interpretation%20bulletin%20bulletin_late_registrations_updates.pdf)] sets out the circumstances when a late registration or update may be permitted:

The Registrar may accept a late registration or update, in appropriate circumstances. In deciding whether to exercise the Registrar's discretion to accept a late registration or update, the following circumstances may be considered:

- Whether the registrant has a previous record of compliance with the Lobbying By-law;
- Whether the registrant had previous knowledge or an opportunity for previous knowledge of the Lobbyist Registry and by-law;
- Whether the registrant complies immediately with all requests for information by the Office of the Lobbyist Registrar;
- Whether the registrant provides a reasonable excuse for the late registration or update, such as an illness or other significant extenuating circumstance;
- Whether the registrant held an honest and reasonable but mistaken belief regarding the need to register the communication;
- Whether it is in the public interest, including but not limited to the legislated mandate of the Lobbyist Registry to provide transparency, to allow the late registration.

Unregistered Lobbying about a Casino in Toronto

I have accepted the explanation provided by MGM, that they were unfamiliar with Toronto's Lobbying By-law and believed that the registration of their consultant lobbyist was all that was required. I have exercised my discretion to permit a late registration and reports of lobbying activities by MGM in order to achieve transparency. MGM has complied with my advice by registering and reporting their lobbying activities. For these reasons, I have taken no further action other than to report on this inquiry to City Council. A report to Council is necessary, as it concerns a matter of public concern. I have reminded MGM that compliance with the Lobbying By-law is a requirement of all lobbyists at the City, and that breach of the Lobbying By-law is a provincial offence.

Respectfully submitted,

Linda L. Gehrke
Lobbyist Registrar