



RECEIVED
CITY CLERK'S OFFICE
SECRETARIAT 12 W

2014 JUN 6 PM 3 28

Anna Kinastowski, B.A., LL.B.*
City Solicitor
Legal Services
Metro Hall, 26th Fl., Stn. 1260
55 John Street
Toronto, ON M5V 3C6
Tel. 416-392-8047
Fax 416-397-5624

** Certified by the Law Society as a Specialist in
Municipal Law: Local Government / Land
Use Planning & Development*

Reply To: Ian A.G. Duke
Tel: 416-338-2305
Fax: 416-397-5624
E-Mail: iduke@toronto.ca

File No. 201763777

TE32.43a

June 6, 2014

Dear Deputy Mayor and Members of Council,

Re: Item TE32.43 Application to Consider - Application by Pattison Outdoor for Five Variances With Respect to a Sign Proposal for One Third Party Ground Sign at 7 Fraser Avenue

The Toronto and East York Community Council, at its May 13, 2014 meeting, requested the City Solicitor to provide a communication to all Members of Council prior to the Council meeting of June 10 and 11, 2014, with information pertaining to whether lobbyists are able to lobby members of Council with respect to a recommendation of the Toronto and East York Community Council, as a quasi-judicial body, regarding a sign variance.

We have conducted a review of this request and conferred with the Lobbyist Registrar. Chapter 140, Lobbying, does not contain an explicit prohibition on communications of this type. The process for sign variance applications does not, as opposed to the procurement process, have a "blackout" period.

Chapter 140 does contain regulations concerning lobbyists, such as registration, which may be applicable based on the particulars of the communication from a lobbyist. However, please note that in dealing with members of Council, lobbyists should ensure that their communications are in accordance with subsection 140-41B, which states that "Lobbyists shall not communicate in relation to an application for approval and the associated review process, except as permitted by applicable policies and procedures."

While lobbyists may communicate with Members of Council with respect to Toronto and East York Community Council's recommendation to City Council regarding proposed sign variances, in doing so the lobbyists will be required to comply with the requirements of Chapter 140. Section 140-5 excludes certain communications from the scope of the Chapter. This would include for example, a written communication that is filed with the City Clerk before or during the meeting to City Council, or a communication described in subsection 140-5F(1), concerning an application for a service, grant, planning approval, permit or other licence or permission:

This chapter does not apply in respect of:

- F. A communication by the applicant, an interested party or their representatives with respect to an application for a service, grant, planning approval, permit or other licence or permission:

- (1) With an employee of the City, a local board (restricted definition) or the Board of Health (including a City employee when working for a board), or a member of Council, a local board (restricted definition) or the Board of Health; if the communication is restricted to providing general information on an application, including a proposed or pending application, or to inquire about the application review process.

This would permit, for example, communications which answer questions concerning the application, or explain what was being sought, or otherwise provide general information about the application. This exclusion would not extend to attempts to persuade Members of Council with respect to a specific outcome concerning an application for sign variances, however other communications concerning a proposed sign variance outside of what is described in subsection 140-5F(1) may still be undertaken by the applicant, an interested party or their representatives, as long as there is compliance with the requirements of Chapter 140, such as registration, filing of returns, etc.

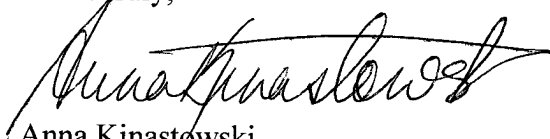
It should be noted that Members of Council, in making the decision under Chapter 694 to refuse, or grant a variance, with or without conditions, are restricted to considering whether the proposal meets all nine of specified criteria contained in subsection 694-30A and are expected to do so in a neutral and unbiased way. As with all other communications, subsection 140-45B therefore imposes a requirement for lobbyists to "not place public office holders in a conflict of interest or in breach of the public office holders' codes of conduct or standards of behaviour."

As the consideration of a sign variance is not a common matter for Members of Council to be tasked with, to avoid any uncertainty as to the appropriateness of any communications, Members of Council may wish to confer with the Office of the Integrity Commissioner concerning the requirements of the applicable Code of Conduct. We also note that each Member of Council is free to choose whether or not to speak to a lobbyist with respect to a sign variance application.

If an individual Member of Council has a specific question concerning the application of Chapter 140, Lobbying, we recommend that it be directed to the Lobbyist Registrar, Linda Gehrke, who may be reached by Telephone at 416-338-5865 or via e-mail at: lgehrke@toronto.ca

We hope that this has been of assistance.

Yours truly,



Anna Kinastowski
City Solicitor