



LOBBYIST REGISTRAR'S REPORT ACTION REQUIRED

Report on a Prosecution for Breach of the Lobbying By-law

Date:	June 26, 2015
To:	City Council
From:	Lobbyist Registrar
Wards:	All
Reference Number:	

SUMMARY

On May 25, 2015, a corporate lobbyist pleaded guilty in the Ontario Court of Justice to the provincial offence that the corporation, on November 4, 2013 did communicate with a public office holder of the City of Toronto regarding a parts and maintenance contract, such communication constituting lobbying as defined under § 140-1 of Chapter 140 of the Toronto Municipal Code, Lobbying (the Lobbying By-law). At the time of this communication the corporation was not registered to lobby public office holders. This was a breach of § 140-10 of the Lobbying By-law. A breach of the Lobbying By law is a provincial offence. The court imposed a fine of \$1000.00. This is the second time the City has obtained a conviction under the *Provincial Offences Act* for breach of the Lobbying By-law. The prosecution was commenced by the Office of the Lobbyist Registrar (OLR) and conducted by the City's Legal Services Division, Prosecutions.

RECOMMENDATIONS

The Lobbyist Registrar recommends that:

1. City Council receive this report for information.

Financial Impact

This report has no financial impact.

DECISION HISTORY

The *City of Toronto Act, 2006*, s. 169 and Toronto Municipal Code, § 3-7B, provide that the Lobbyist Registrar may report to City Council on inquiries conducted by her, and in the report may disclose such matters as in the Registrar's opinion are necessary for the purposes of the report.

COMMENTS

The Office of the Lobbyist Registrar conducted an investigation into reports by City staff that an individual, Mr. Roger Vanderlinden, acting on behalf of the corporation of which he was President, Equipment Specialist Inc., had communicated with City employees about an active procurement process and a non-exclusive contract held by the Equipment Specialist to provide parts and maintenance for city street sweepers during the period after the procurement was issued and had not yet been awarded. The City's Procurement Processes Policy and the procurement document provided that all communications except with the staff contact person designated in the procurement document were strictly prohibited during this period. The Lobbying By-law, § 140-41A, provides:

140-41. Compliance with policies restricting communication

- A. Lobbyists shall not communicate in relation to a procurement process except as permitted by applicable procurement policies and procurement documents.

Mr. Vanderlinden was not a registered lobbyist when he communicated with City staff. Subsection 140-10 of the Lobbying By-law provides:

140-10. Registration requirement

No person shall lobby a public office holder without being registered as required under Articles II, III or IV, unless otherwise exempted under this chapter.

On April 30, 2014, OLR Inquiries and Investigations Counsel swore an information under the *Provincial Offences Act* against Mr. Roger Vanderlinden and the Equipment Specialist Inc., stating that he had reasonable and probable grounds to believe that on or about November 4, 2013 Mr. Roger Vanderlinden and the Equipment Specialist Inc., being lobbyists, communicated in relation to a procurement process when not permitted to do so by the applicable procurement policies and procurement documents, contrary to § 140-41A.

The City Prosecutor advised and assisted the OLR in laying charges and conducted the prosecution.

The City Prosecutor and OLR Inquiries and Investigations Counsel attended a number of judicial pretrial meetings with the lobbyist's counsel. Out of these meetings came a plea agreement between the parties.

On May 25, 2015, the Equipment Specialist Inc. pleaded guilty to the charge that on November 4, 2013, being a lobbyist, the Equipment Specialist Inc. did communicate with a public office holder of the City of Toronto regarding a parts and maintenance contract when not registered to lobby public office holders as required by § 140-10 of the Lobbying By-law. The remaining charges were withdrawn.

The following agreed statement of facts was read into court:

1. The Equipment Specialist Inc. ("TES") on the 4th of November, 2013 did communicate with a Public Office Holder of the City of Toronto regarding a parts and maintenance contract.
2. The Equipment Specialist did not know, and was unaware of the Registry for Lobbyists, which was implemented in 2008, or its scope, and had communication with a Public Office Holder during that period, to date.
3. At the time of this communication the Equipment Specialist was not registered to lobby public office holders as required by § 140-10 of the Lobbying By-law.

Since this was a first offence for the defendant corporation and there were no aggravating factors, the court imposed a fine of \$1000.00 plus the Provincial Victim Fine Surcharge for a total payable of \$1250.00.

CONTACT

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SIGNATURE

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