



The City of New York  
Department of Investigation

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COMMISSIONER

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August 31, 2011

Honorable Herbert Berman, Chair  
New York City Lobbying Commission  
One Center Street, 2330 North  
New York, NY 10007

Re: The Lobbying Commission's Draft Report on the City's Lobby Law

Dear Mr. Berman:

Thank you for affording the Department of Investigation ("DOI") the opportunity to present you and the Lobbying Commission ("Commission") our comments and observations regarding the Commission's Draft Report on the City's Lobby Law (the "Law"). We commend the Commission for its comprehensive review of the issues and proposals presented from numerous agencies, advocacy groups, lobbyists, and the public and for coming up with a thoughtful and useful set of recommendations.

At the Commission's inaugural public hearing in March, DOI submitted a letter providing background on DOI's mission to rout out corruption, conflicts of interest and criminal activity in City government. Pursuant to that mission, DOI routinely investigates allegations of misconduct related to the City's activities with an eye towards making improvements in government operations and avoiding potential corruption hazards. It is in this context that DOI operates a dedicated Lobby Law Unit and offers its perspective on the Lobby Law reflected in the comments on the Commission's Draft Report set forth below.

Overall, DOI agrees with the Commission's recommendations and believes that they go a long way towards clarifying the Law, and increasing its effectiveness by enhancing research capabilities for the public, simplifying reporting, and providing needed education and outreach to increase compliance. In particular, DOI strongly agrees with the recommendations that address the definition of lobbying; the Law needs to recognize that lobbying takes many forms and can occur prior to the formal introduction of legislation or the publication of proposed rules or rates. Similarly, the proposal to change the Law to have lobbying include attempts to influence the City Council's decisions regarding oversight and investigations and any attempts to influence Mayoral executive orders is in DOI's view quite necessary since those activities are akin to lobbying officials regarding specific pieces of legislation. DOI also agrees that the

proposal to increase the registration threshold from \$2,000 to \$5,000 is warranted since it will remove the reporting burden from groups who do a minimal amount of lobbying.

In addition, DOI supports the recommendations that call upon the City Clerk's Office to increase its outreach, education and training efforts. In addition to the recommendation of mandatory training for all registered lobbyists once online training is developed, we agree with the Commission's recommendation to provide outreach and education to professional advisors and technical experts (e.g., architects, planners, engineers) who appear before government officials to explain technical aspects of their clients' projects and are thereby deemed to be lobbying and required to register. Accordingly, DOI fully endorses the Commission's recommendation that the City Clerk's Office have a position solely dedicated to training and outreach.

Further, DOI supports the Commission's call for legislation to provide for a one-time amnesty from late filing penalties for lobbyists that have never previously registered with the City Clerk and for the Clerk's Office to develop protocols to identify unregistered lobbyists. DOI believes that compliance with the Law is its main goal and that amnesty may encourage those who have failed to register in the past and fear reprisal to now step forward. In addition, DOI does not object to the Commission's proposal to provide the City Clerk with limited discretion to waive or reduce late filing penalties based upon specific mitigating factors (e.g., the number of past late filings, the organization's annual budget, the amount of lobbying underreported, and the reason for the late filing) so long as is described below, the Clerk is required to collect, maintain and rely on documentation sufficient to justify each waiver or reduction in late filing penalties granted and memorialize the basis for each such waiver or reduction.

Lastly, DOI supports the Commission's recommendations pertaining to improving the technology related to the Law such as linking lobbyist data to the City's Doing Business Database and reporting by the Clerk. These recommendations are meant to not only make reporting easier for lobbyists and clients, but increase transparency by providing greater information in a more accessible and searchable format. DOI agrees that filing for lobbyists and clients should be as easy as possible and that the information should be as accessible as possible to the public and enhanced technology is critical to that goal.

In addition to agreeing with the Commission's recommendations, DOI presents the following additional suggestions for improvements to the Law for the Commission's consideration, some of which will augment the Commission's recommendations and others that entirely new.

- 1) Require at least two people from lobbying organizations to be trained in the use of the e-Lobbyist system.**

Following on the Commission's recommendation of mandatory training for all registered lobbyists, DOI further recommends that at least two people, including a

lobbyist, should be required to be trained in the use of the e-Lobbyist system. This requirement would help protect lobbying firms from problems with filings that DOI has encountered where just one person was trained to use the e-Lobbyist system and it would help ensure that client registrations and periodic reports are filed in a timely manner. Exemptions from this requirement should be allowed based upon the size of the lobbyist organization, including support staff.

**2) Require the mandated training to include a corruption prevention component and be required to taken every two years.**

DOI recommends that when the online training for registered lobbyists is developed, it contain a corruption prevention module based upon DOI's Corruption Prevention Lectures. DOI conducts hundreds of these lectures every year to City employees, vendors, not-for-profits and others doing business with the City to educate them on their responsibilities in identifying and reporting suspected corruption. DOI's training can easily be made applicable by DOI to the over 700 lobbyists an added to the online format. DOI further recommends that the lobbyist training, including DOI's corruption prevention component, should be mandatory for all registered lobbyists every two years.

**3) Any waiver or reduction of late filing penalties should be linked to a requirement that the Clerk to collect, maintain and rely on documentation sufficient to justify each waiver and penalty reduction.**

We note that the Commission's proposed criteria for granting waivers and penalties reductions in connection with violations of the Lobby Law will result in such waivers and reductions only being available to a small number of lobbyists. In order to insure the effectiveness and transparency of this process, DOI recommends that the Clerk be required to collect, maintain and rely on documentation to justify each waiver and penalty reduction and further memorialize the basis for each such waiver and reduction.

**4) Amend the Law to require lobbyists to identify both who they lobbied and the entity the lobbied person is from.**

As the Law is currently written, lobbyists have to report either the person or the entity that they lobbied on behalf of each client. The Lobbying Bureau has already established a policy to address the issue of the Law's failure to require reporting of both pieces of information by instructing lobbyists to report both the entity and respective person or people lobbied. However, DOI recommends that the Law be amended to conform to the Lobbying Bureau's current policy.

**5) Amend §3-213(c)(5) and §3-216(b)(3) to be more specific regarding the term “information sufficient to identify.”**

The term “sufficient” as used in §3-213(c)(5) and §3-216(b)(3) of the Law is currently undefined and necessarily subjective, so DOI recommends that the City follow the State’s policy and require lobbyists to, when possible, identify the actual number of the bill, resolution, regulation, rule, and/or other law or matter on which they have lobbied.

Though DOI understands that the Commission has decided not to consider moving the lobbying responsibilities of the City Clerk’s Office to another governmental office or to consider proposals that relate to the City’s Campaign Finance Law, DOI believes that these ideas do warrant consideration. As the Commission is proposing the creation of another Commission in a few years, DOI recommends that the new Commission be charged with exploring this idea along with any others deemed appropriate.

Thank you so much for your consideration of our proposals. We look forward to further discussing with you these recommendations in more detail.

Sincerely,



Alexander Dillon  
Lobby Law Director