

CITY OF LOS ANGELES  
CALIFORNIA

CITY ETHICS COMMISSION

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CITY ETHICS COMMISSION  
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CITY HALL - 24TH FLOOR  
LOS ANGELES, CA 90012

October 31, 2008

Bradley

Los Angeles, CA

**Re: CEC Advice No. 2008-09**

Dear Bradley:

This letter is in response to your request for formal advice dated September 29, 2008, regarding whether or not you are required to register as a lobbyist with the City of Los Angeles. Your question and the Commission's advice are based on the facts that you provided.

Section 705 of the Los Angeles City Charter (Charter) authorizes the Ethics Commission to provide formal advice regarding the City's campaign finance, ethics, and lobbying laws. When applicable, and with the concurrence of the City Attorney's office, the Commission's written advice may also include an analysis of related provisions of the California Political Reform Act of 1974, when terms used in City law are defined there. However, the Commission does not advise about other City, state, or federal laws, because those laws do not fall within the Commission's jurisdiction.

Formal written advice provides the requestor with the immunity in Charter § 705(b). However, the immunity does not address or apply to any past actions by the requestor. Under Los Angeles Administrative Code (LAAC) § 24.1.1(f)(2)(K), immunity is limited to the requestor and to the specific facts contained in this advice.

**QUESTION**

*Is a land use entitlement consultant who submits plans for administrative approval and appears at public hearings on behalf of clients required to register as a City lobbyist?*



## CONCLUSION

A land use consultant who is compensated to advocate for clients in administrative settings and at public hearings must register as a lobbyist if, in a three-month period, the consultant engages in 30 or more hours of lobbying activity that includes at least one direct communication with a City official. Because you have not engaged in 30 hours of lobbying activity in a consecutive three-month period, you are not currently required to register as a lobbyist. Once you do reach the 30-hour threshold, however, you will be required to register.

## RELEVANT FACTS

You have provided the following facts, which we have determined are relevant to your request:

1. You are a land use entitlement consultant and the owner of E.B.E. Associates, Inc. You receive compensation from clients for submitting land use permit applications and obtaining construction permits for residential and commercial buildings throughout the City.

2. In the course of your work, you interact with the Department of Planning and the Department of Building and Safety. All applications filed with those departments are subject to administrative approval. Some permit and plan approvals are more technical in nature and involve City officials checking applications and plans against set criteria. However, other approvals require more deliberation and are addressed by City officials in public administrative hearings, where judgments are made based on information provided by applicants and their representatives.

3. On behalf of your clients, you submit architectural, structural, and engineering plans for administrative approval, which require interpretation and clarification. You also attend public hearings on client projects to answer questions, address the applicable laws, and identify the intent and purpose of the specific applications. In that context, you explain your interpretations of specific municipal code sections and relate the regulation to an application and its justifications.

4. For each client project, you engage in approximately 1.5 hours of work. You had four projects this quarter, and you spent a total of seven hours working on them.

## APPLICABLE LAWS

The City requires lobbyists and lobbying entities to register and file quarterly reports when specific lobbying activity thresholds are met. These requirements exist because, as the Municipal Lobbying Ordinance (MLO) notes, citizens "have a right to know the identity of interests which attempt to influence decisions of City government, as well as the means employed by those interests." Los Angeles Municipal Code (LAMC) § 48.01(B)(2).

The MLO defines a lobbyist as “any individual who is compensated to spend 30 or more hours in any consecutive three-month period engaged in lobbying activities which include at least one direct communication with a City official or employee, conducted either personally or through agents, for the purpose of attempting to influence municipal legislation on behalf of any other person.” LAMC § 48.02. The following questions, therefore, must be answered in determining whether an individual is required to register as a lobbyist:

- a. Does the individual’s activity involve municipal legislation?
- b. Is the individual attempting to influence that municipal legislation on behalf of another person?
- c. Is the individual being compensated for the attempt to influence?
- d. In the attempt to influence, has the individual had at least one direct communication with a City official or employee?
- e. Has the individual engaged in at least 30 hours of lobbying activities in a consecutive three-month period?

The MLO provides additional definitions, which assist in answering those questions. For example, “municipal legislation” is defined as “any legislative or administrative matter proposed or pending before any [City] agency.” LAMC § 48.02. The term specifically includes matters involving the granting, denial, revocation, restriction or modification of a license, permit or entitlement for use (including all land use permits) if a City official, employee, or body is charged by law with making a final decision on the matter. *Id.* The term does not include requests for advice or interpretations of laws, responses in an Ethics Commission enforcement action, ministerial actions, certain actions regarding collective bargaining agreements, or data or maps submitted to the City Planning Department. *Id.*

“Attempting to influence” means “promoting, supporting, opposing or seeking to modify or delay any action on municipal legislation by any means, including but not limited to providing or using persuasion, information, statistics, analyses or studies.” *Id.* “Lobbying activity” means compensated conduct that is related to a direct communication to influence municipal legislation, including but not limited to the following:

- a. Engaging in a direct communication with a City official;
- b. Drafting ordinances, resolutions, or regulations;
- c. Providing advice or recommending strategy to a client or others;
- d. Researching, investigating, and gathering information;
- e. Seeking to influence a third party’s position on municipal legislation, such as through community or press relations activities; and
- f. Attending or monitoring City meetings, hearings, or other events.

*Id.* Finally, “direct communication” is defined as “appearing as a witness before, talking to (either by telephone or in person), corresponding with, or answering questions or inquiries from, any City official or employee, either personally or through an agent who acts under one’s direct supervision, control, or direction.” *Id.*

## ANALYSIS & CONCLUSION

There are five questions that must be answered in determining whether an individual qualifies as a City lobbyist. If each of these questions is answered in the positive, then the individual is a lobbyist and must comply with the City's registration and reporting requirements. The questions and our analysis of how to answer them in light of the facts you have provided are as follows:

1. *Does your activity relate to municipal legislation?*

Yes. As a land use entitlement consultant, you assist clients by facilitating City decisions regarding land use permits. A land use permit is an administrative matter that is pending before a City agency and regarding which a City decision must be made, so it qualifies as municipal legislation.

2. *Are you attempting to influence municipal legislation on behalf of another person?*

Yes. On behalf of your clients, you interact with personnel in the Department of Planning and the Department of Building and Safety. Your interactions include attending public hearings, answering questions posed by City officials, explaining the intent and purpose of a particular application, and explaining how an application relates to and is justified under pertinent City laws. All of these activities are designed to promote and support a decision regarding land use permits that will be favorable to your clients. As a result, you attempt to influence municipal legislation on behalf of another person.

3. *Are you compensated for your attempts to influence municipal legislation?*

Yes. You receive compensation from your clients for your assistance in facilitating City decisions regarding land use permits.

4. *In attempting to influence municipal legislation, have you had at least one direct communication with a City official or employee?*

Yes. The activities you describe undertaking on behalf of your clients include testifying at public hearings, answering questions posed by City officials, and explaining the intent, purpose, and justification of a particular application. Under the MLO, these activities are considered direct communications for purposes of qualifying as a lobbyist who must register with the City.

5. *Have you engaged in at least 30 hours of lobbying activities in a consecutive three-month period?*

No. You state that you have engaged in a total of seven hours of work for your City clients in the past three months.

The facts that you have provided do not result in an affirmative answer to each of these questions. As a result, you are not currently required to register as a lobbyist. However, if, in the future, you do engage in 30 hours of lobbying activity, including at least one direct communication, in a consecutive three-month period on behalf of clients, you will meet the MLO's registration requirement at that time.

Thank you for requesting advice from the Ethics Commission. If you have any questions regarding this matter, please do not hesitate to contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "LeeAnn M. Pelham", with a long horizontal flourish extending to the right.

LeeAnn M. Pelham  
Executive Director