




**Beverly Hills City Council Liaison / Sunshine Task Force
Committee will conduct a Special Meeting, at the following time and place,
and will address the agenda listed below:**

**City Hall
455 North Rexford Drive
2nd Floor Municipal Gallery
Beverly Hills, CA 90210**

**April 24, 2017
5:00pm**



AGENDA

- 1. Public Comment**
Members of the public will be given the opportunity to directly address the Committee on any item listed on the agenda.
- 2. Legislative Advocate Form**
- 3. Adjournment**

for 

Byron Pope, City Clerk

Posted: April 12, 2017

 
In accordance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please call the City Manager's Office at (310) 285-1014. Please notify the City Manager's Office at least twenty-four (24) hours prior to the meeting so that reasonable arrangements can be made to ensure accessibility.



CITY OF BEVERLY HILLS

CITY CLERK'S OFFICE

MEMORANDUM

TO: Sunshine Task Force Committee Members
FROM: Lourdes Sy-Rodriguez, Assistant City Clerk
DATE: March 23, 2017
SUBJECT: Legislative Advocate Form

At the March 20, 2017 Sunshine Task Force Committee meeting, Committee member Fred A. Fenster requested that a two-hour meeting be scheduled to discuss his and fellow Committee member Murray D. Fischer's report on the legislative advocate form revisions.

Hi Lourdes,

Instead of submitting a revised Legislative Advocate Form, I decided it would be more productive for the Sunshine Committee to consider the points that are at issue, and once a consensus is reached, the new form can be finalized and presented to the City Council:

DEFINITION OF A LOBBYIST

According to Section 1-9-102 of the Beverly Hills Municipal Code, a “LEGISLATIVE ADVOCATE” is defined as: “any individual who is compensated or who is hired, directed, retained or otherwise becomes entitled to be compensated for engaging in legislative advocacy.”

“LEGISLATIVE ADVOCACY includes the following and similar conduct for compensation when the conduct is related to attempting to influence municipal legislation: (a) engaging in either personally or through an agent written, electronic or oral direct communication with a city official; (b) drafting ordinances, resolutions or regulations; (c) attempting to influence the position of any third party on municipal legislation or an issue relating to municipal legislation by any means, including but not limited to engaging in community or media relations activities; (d) advising clients regarding strategy for legislative advocacy.”

A “CITY OFFICIAL” is defined as: “the Mayor, any member of the City Council and any member of a City of Beverly Hills Commission.”

A “CLIENT” refers to “any person who provides compensation to a legislative advocate for legislative advocacy, whether the compensation is provided directly, indirectly or through an intermediary.”

“COMPENSATION” refers to “monetary or in-kind payment or remuneration in an amount in excess of \$50 or the expectation of such remuneration for engaging in the legislative advocacy.”

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

Murray Fischer has suggested that a different definition of a Lobbyist be employed:

A “LOBBYIST is an individual or entity who, for compensation, attempts to influence a decision to be made on a discretionary matter by either the City Council or any Commission. Said matter becomes a discretionary matter once an Application is filed with the City of Beverly Hills.”

The first issue to determine is whether the definition of a Lobbyist should be expanded to cover situations in addition to “attempting to influence municipal legislation,” or whether Murray Fischer’s more narrow definition should be adopted. Any proposed change will require that the Beverly Hills Municipal Code be amended.

In making a decision, it is important to understand Murray Fischer's definition of a "discretionary matter." From his perspective, a discretionary matter is one that involves a conditional use permit, development plan review, variance, legislative act, or any matter that requires CEQA review. Notably, the Beverly Hills Municipal Code is not so restricted.

Murray Fischer would also like to exclude from the lobbyist registration requirement any individual or entity whose sole action is to represent a party for compensation for the purpose of obtaining information in order to make a decision about whether to proceed with a project and/or a property.

This point relates to the timing of when the Legislative Advocate Form must be completed. As noted by Murray Fischer, until such time as an application is filed involving any discretionary matter or project, there is no need for the "Lobbyist" to complete the Legislative Advocate Form.

The question thus becomes identifying the precipitating event that will trigger the requirement to complete the Legislative Advocate Form – i.e. is it when an individual engages in background research and due diligence or at the time the "Lobbyist" is informed that the purpose of the retention is to achieve a specific objective.

In that connection, Section 1-9-105 of the Beverly Hills Municipal Code entitled "Registration" states:

"Within ten (10) days after a legislative advocate begins to engage in legislative advocacy that includes direct communication with a city official other than in an open public meeting, the legislative advocate shall register as a legislative advocate with the City Clerk on a form provided by the City for that purpose. The registration shall include the name, telephone number, business address, email address and fax number of the legislative advocate and the legislative advocate's employer, the identity of the client, the contact information for the client, a description of the specific business in which the client is involved, a description with specificity of the matter of municipal legislation the legislative advocate is attempting to influence and the outcome desired by the client. The form shall also include a description of legislative advocacy conducted during the previous twelve (12) months that was not previously reported to the city by the legislative advocate."

In addition, any form submitted by the legislative advocate "shall be signed under penalty of perjury, shall be available for public view in the City Clerk's office, as well as posted on the City's website in a searchable data base and shall be forwarded by the City Clerk to each city official, City Manager and the City Attorney."

This raises a number of issues for the Sunshine Committee to consider: What actions constitute "engaging in legislative advocacy"; should the definition of CITY OFFICIAL be expanded to include staff; should staff be required to maintain records of all communications that take place with an actual or prospective lobbyist on the subject that is at issue, and if so, what specific

information must be included – i.e. the name of the person making the inquiry, the nature of the inquiry and the information that was provided.

THE LEGISLATIVE ADVOCATE FORM

In my letter of September 26, 2016 to Huma Ahmed, a number of additional requirements to be included in the Legislative Advocate Form were submitted for discussion but no conclusion was reached:

1. Should the Lobbyist be required to identify each Councilmember, Commissioner, City official and staff as well as other Legislative Advocates who he/she intends to contact in connection with the anticipated lobbying activity.
2. Should the Lobbyist submit a written report every 30 days as to who has been contacted, whether orally or in writing, until the advocacy task has been completed, as well as the date and time thereof, together with an itemization of the subjects that were discussed.
3. Should a copy of the Beverly Hills Municipal Code be attached to the Legislative Advocate Form so there is no misunderstanding as to the meaning of “client,” “compensation,” “direct communication,” “legislative advocacy,” “legislative advocate” or “remedies for violations.”
4. Should a list of exemptions be included, and if so, what are they.
5. Should the desired outcome to be identified by the form be much more specific – i.e. should descriptions such as “business license renewal” or “resolution of the tax appeal involving” be included to more fully apprise the reader of the ultimate goal.
6. Who will monitor the submission of the Legislative Advocate forms to ensure that they comply with the applicable requirements.

On a related matter, should the Legislative Advocate Disclosure Form be present at the City Council meeting whenever a Lobbyist speaks before it so that the Councilmembers can ask specific questions regarding the activity which is being considered.

NOTICE OF COMPLETION

Another issue is whether a Notice of Completion form should be submitted by the Legislative Advocate once the specific advocacy activity has been completed or has ceased, along with a delineation of the date that occurred. Murry Fischer has suggested the such a notice should also be filed if there has been an abandonment, as well as when a final decision is rendered by the last governmental entity that is subject to the last discretionary Review or there is a Final Determination.

GOVERNMENTAL DISCLOSURE FORM

Murray Fischer has raised the issue of whether a City Councilmember and/or Commissioner should complete a Governmental Disclosure Form regarding communications that take place outside of the formal hearings pertaining to a particular issue that the City Council must decide, and if so, he has identified the specific information to be included.

Please circulate this letter to the members of the Sunshine Committee and post it on the website so that members of the public will have ample opportunity to prepare comments for the upcoming meeting.