

CITY OF MADISON, WISCONSIN

REPORT OF: City Attorney	PRESENTED	<u>March 21, 2006</u>
AUTHOR: Michael P. May City Attorney	REFERRED	<u>Common Council</u> <u>April 4, 2006</u>
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TO THE MAYOR AND COMMON COUNCIL:

Pursuant to Section 2.40(12)(d), MGO, the City Attorney is to file an annual report with respect to activities under the Lobbying Ordinance. 2005 was a very active year for Lobbying Ordinance activities. This Report has five parts:

1. Amendments to the Lobbying Ordinance.
2. Training Sessions.
3. Konkel Complaints.
4. Registrations Under the Ordinance.
5. Future Enforcement.

1. Amendments to the Lobbying Ordinance.

After much debate, testimony and drafting of various alternatives, the Common Council amended the Lobbying Ordinance, effective October, 2005.

The amendments greatly reduce the coverage of the Ordinance. With some exceptions, the Ordinance now essentially covers four areas: lobbying for large real estate developments, persons seeking cash assistance of greater than \$10,000 from the City, lobbying by businesses located outside the City, and lobbying by individuals who meet certain definitions of what would be considered traditional paid lobbyists.

2. Training Sessions.

Our office conducted four training sessions following the amendments to the Ordinance. Three of these were held in the fall and were aimed at the business community. They were conducted at CUNA, American Family Insurance and the Madison Municipal Building. In addition, in January, 2006, we conducted special training for design professionals, held at Ayres & Associates. We will conduct additional training in the fall of this year. We hope to post a streaming video of the training on our website.

3. Konkel Complaints.

Beginning in April and continuing into May, 2005, Alder Brenda Konkel filed a number of complaints under the Lobbying Ordinance. She filed a total of 67 complaints alleging approximately 692 instances of violations.

After reviewing the complaints, we determined that 284 did not allege sufficient evidence of a violation of the Lobbying Ordinance to merit further investigation.

Of the remaining 408 instances, 40 persons were asked to confirm an apparent exemption under the ordinance. Those exemptions were all confirmed.

Of the remaining 368 instances, all except two have been resolved by our office. I have not prepared exact numbers of the resolutions, but I can give some approximations.

First, a number of individuals and companies registered upon being contacted by our office. I would estimate that approximately one-third of the complaints were resolved through registration.

Second, I estimate that approximately one-quarter to one-third of the incidents involved situations where the person(s) involved were able to demonstrate they were not covered or were exempt under the ordinance.

Third, the largest group, probably slightly more than one-third, were instances where I did not deem it appropriate to pursue any action against those involved, even though it was not clear that the party was exempt. These involved a number of persons who may have misunderstood whether they had obligation to register as lobbyists. A large part of this group included certain professionals (primarily architects or engineers). In addition, there were certain persons who were granted an exemption by the Council in the new ordinance. I did not consider it appropriate to pursue forfeiture proceedings when the Council had made a policy decision that these persons would not be covered under the Ordinance in the future. In nearly all of the cases in this third group, we advised the persons involved of their obligations under the law, and received commitments that they would register in the future if they again lobbied.

Finally, there was a fourth group, perhaps a dozen persons, who we were unable to locate.

There remain only two individuals who do not fall into any of the categories set out above and for whom our office is still determining what, if any, action should be taken.

Alder Konkol filed four additional complaints in September, 2005, alleging that certain persons were lobbying on the proposed smoking ordinance without being registered. We followed up in each instance, and the persons either demonstrated they were not lobbying as defined in the ordinance, or they registered.

4. Registrations under the Ordinance.

There undoubtedly are various points of view regarding the changes that were made in the lobbying ordinance and the complaints filed by Alder Konkol in 2005. However one views it, it is clear that the publicity given to Madison's lobbying ordinance, the hotly debated amendments to the ordinance, the complaints filed, and the training and follow-up on those complaints by the Office of the City Attorney, have greatly raised the consciousness about the City's Lobbying Ordinance.

In 2004, there were a total of 63 principals who registered with the City. In 2005, with the publicity and information related to the amendments to the Ordinance and the filing of the lobbying complaints, 182 principals were registered. This is nearly a 300% increase. For 2006, through March 10, 2006, 185 lobbyists have already registered under the amended ordinance.

These numbers are not totally comparable because the new ordinance changed the manner of registration from being primarily related to the principal to being primarily related to the lobbyist. Thus, the new registrations show the number of lobbyists, but they may be registered for multiple principals, or multiple lobbyists may be registered for the same principal. Similarly, in the past, a single principal may have had multiple lobbyists or a number of principals may have had the same lobbyist.

Nonetheless, I think it is obvious that compliance with the Lobbying Ordinance has increased greatly in the last two years.

5. Future Enforcement.

We will be checking registration at certain key City boards, commissions and committees for the first half of 2006. If we find persons who we believe should have registered, but failed to do so, our office will contact them to seek registration. If necessary, we will pursue further enforcement action. Our goal remains compliance with the ordinance, not punishment.

Respectfully submitted,

Michael P. May
City Attorney