

MEH



City of Chicago
Eugene Sawyer, Acting Mayor

June 21, 1988

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[REDACTED]

Case Number 88044.A

Dear [REDACTED]

The Board of Ethics has received your request for an advisory opinion to determine whether, for purposes of the Governmental Ethics Ordinance (Chapter 26.2 of the Municipal Code), employees of Co. [REDACTED] who appear before various City agencies are acting as "lobbyists". In communications with our staff, you indicated that representatives of [REDACTED] (mainly the company's Director of Consumer Affairs, [REDACTED] regularly meet with: 1) the Cable Commission, 2) the Office of Cable Communications and 3) the City Council and its members.

It is the Board's determination that contacts between employees of [REDACTED] and 1) the Cable Commission and 2) the Office of Cable Communications are not subject to Article 3 of the Ethics Ordinance, the lobbyist disclosure provisions. However, contacts between employees of Co. [REDACTED] and the City Council and/or its members are subject to those regulations.

ANALYSIS: PART I

The Ethics Ordinance at Section 26.2-1(o) defines a "lobbyist" as any person:

- (i) who for compensation or on behalf of any person other than himself undertakes to influence any legislative or administrative action; or
- (ii) any part of whose duties as an employee of another includes undertaking to influence any legislative or administrative action.



"Administrative action" is defined in Section 26.2-1(a) of the Ethics Ordinance as:

a decision on, or proposal, consideration, enactment or making of any rule, regulation or other official non-ministerial action or non-action by an executive department, or by any official or employee of any executive department, or any matter which is within the official jurisdiction of the executive branch (emphasis added).

For purposes of the Ethics Ordinance's regulation of administrative lobbying, the Board of Ethics has determined that the term "executive department" refers to the Mayor's Office and all agencies of the City of Chicago specifically designated as "executive departments" in the Municipal Code of Chicago. The Cable Commission and its administrative arm, the Office of Cable Communications, are not so designated and therefore are not within the purview of the Ethics Ordinance's regulation of administrative lobbying.

ANALYSIS: PART II

On the other hand, attempts to influence the actions of the City Council and its members are covered by the Ethics Ordinance provisions concerned with legislative lobbying. Section 26.2-1(n) of the Ordinance defines "legislative action" quite broadly, including:

the introduction, sponsorship, consideration, debate, amendment, passage, defeat, approval, veto or other official action or non-action on any ordinance, resolution, motion, order, appointment, application or other matter pending or proposed in the City Council or any committee or subcommittee thereof.

In telephone conversations with our staff, you indicated that meetings, both formal and informal, between employees of [REDACTED] Co. [REDACTED] and aldermen were required by the [REDACTED] agreement with the City. You requested an exemption from lobbyist disclosure for [REDACTED] on the basis of this requirement. The clause in question [REDACTED] states:

Pursuant and in addition to Section 113.1-27(B) of the Enabling Ordinance, Grantee shall

establish and maintain offices and provide personnel, telephone service and other equipment, as needed, to ensure timely, efficient and effective service to consumers. Such personnel shall include one person designated by Grantee to act as a liaison between Grantee and the City on consumer service issues (emphasis added).

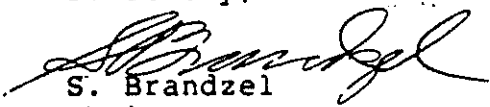
In response to the Board's request for a legal interpretation of the franchise agreement, the Law Department has informed us that the contract clause in question does not require any contact between any employee of [REDACTED] Co. and aldermen. "The City" in the context of the liaison provision refers only to the City agents authorized to act on behalf of the City in these matters: the Cable Commission and the Cable Administrator, not the City Council or individual aldermen. Consequently, the [REDACTED] agreement has no affect upon the application of the Ethics Ordinance's lobbyist registration provisions to [REDACTED] Co.

Therefore, when an employee of [REDACTED] Co. appears before or meets with an alderman for the purpose of influencing legislative action, he is lobbying within the meaning of the Ethics Ordinance (See Section 26.2-1(o), above). Every conversation with an alderman is, of course, not lobbying. Thus, for example, if an employee of [REDACTED] meets with an alderman to discuss consumer service in the ward, he is not acting as a lobbyist. But, if he seeks to influence legislative action, no matter how subtly, he is lobbying and therefore, subject to the disclosure requirements of the Ethics Ordinance.

The Ethics Ordinance requires all lobbyists whose lobbying-related compensation or expenditures aggregate \$5,000 or more in the preceding or current calendar year to register and file twice-yearly reports with the Board of Ethics (Section 26.2-21).

Should you have any questions, please contact the Board of Ethics at 744-9660.

Sincerely,


S. Brandzel
Chairman

[REDACTED]
MA/ma/ [REDACTED]