



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Office of the Inspector General • 7833 Walker Drive, Suite 425 • Greenbelt, Maryland 20770

MEMORANDUM OF LIMITED INVESTIGATION
October 20, 2021

To: Elizabeth Hewlett, Chair
Maryland-National Capital Park and Planning Commission

Casey Anderson, Vice-Chair
Maryland-National Capital Park and Planning Commission

From: Renee Kenney *Renee M Kenney*
Inspector General

Re: Lobbying Disclosure

A Memorandum of Limited Investigation describes specific issues or complaints received and the outcomes of limited procedures undertaken during a preliminary inquiry conducted by the Office of the Inspector General (OIG). Limited Investigations are not conducted per Government Auditing Standards or Principles and Standards for Offices of Inspector General.

Concern/Allegation(s): On September 13, 2021, General Counsel's office forwarded an email they received from a Montgomery County resident regarding paid lobbyists to the OIG. It was alleged that the Maryland-National Capital Park and Planning Commission (Commission) did not have any lobbyist registration forms on file as required by their own internal regulations.

OIG's initial inquiry confirmed, the Commission has not been requesting/receiving required lobbyist information. This lapse appears long-standing, as there is no record of any prior filings.

Note: As a result of the resident's inquiry, Commission management is currently completing a compliance review of lobbying activities.

Background/Investigation: The Practice requires every employer of a lobbyist to furnish a written and signed authorization to act with the Commission by the lobbyist at the time he/she acts pursuant to the authority. The Practice also requires each registrant to file one report per year under oath concerning his/her lobbying activities.

The Practice defines lobbyist as a person who:

- (1) Receives \$500 or more as compensation, or
- (2) Expends a cumulative sum of \$100 or more during a fiscal year to entertain a Commissioner or employee with meals and beverages, entertainment, or other gifts, and

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- (3) Communicates orally or in writing with any Commissioner or employee for the purpose of influencing any action which a Commissioner or employee is authorized to take in the performance of legislative or quasi-legislative functions.

Practice 5-61, *Lobbying Disclosure* is included in its entirety in **Exhibit A**.

The OIG spoke with Ms. Gwen Wright, Director, Montgomery County Planning Department and Ms. Andree Checkley, Director, Prince George's County Planning Department. Neither Director was familiar with Commission Practice 5-61 or any lobbyist filing requirements.

The OIG also determined that individuals who appear to meet the definition of a lobbyist, routinely appear before the Planning Board(s). Historically, these individuals or organizations have not filed an authorization to act or a lobbyist report as required.

OIG Conclusion/Recommendations: The OIG recommends Commission management immediately implement procedures to ensure compliance with Commission Practice 5-61.

The OIG also recommends Commission management complete a review of Commission Practice 5-61 to ensure policy requirements support the business objectives of the Commission while mitigating the inherent risks of lobbying activities. If warranted, policy changes should be processed and approved as required by internal regulation.

In addition, the OIG recommends completion of any action items identified as a result of the ongoing compliance review (e.g. notification of Maryland State Ethics Commission).

Cc:

Executive Committee
Asuntha Chiang-Smith

Audit Committee
Dorothy Bailey
Partap Verma
Benjamin Williams

M-NCPPC Officers and Directors
Michael Beckham
Natalie Beckwith
Andree Checkley
Adrian Gardner
Mike Riley
Bill Tyler
Gwen Wright
Joseph Zimmerman



Approved by
The Commission

No. 5-61

Initially issued: 11/09/1983

Last amended: 06/12/1985

Last reviewed: 07/08/2019
without modification

LOBBYING DISCLOSURE

AUTHORITY This practice was approved by the Commission November 9, 1983, and revised June 12, 1985.

Thomas H. Countee, Jr.
Executive Director

REFERENCES Maryland Public Ethics Law, Article 40-A, §6-302, Annotated Code of Maryland, requires the Maryland-National Capital Park and Planning Commission to develop a lobbying disclosure policy.

Article 28, §2-115, Annotated Code of Maryland.

PURPOSE To assure that lobbying the Maryland-National Capital Park and Planning Commission, the Montgomery County Planning Board, the Prince George's County Planning Board, or the Merit System Board, for the purpose of influencing any action of theirs, does not violate ethical norms and erode the highest trust placed by the public in Commissioners, appointees, and employees of the Commission.

APPLICATION This practice applies to all individuals or groups who lobby Commissioners, appointees, or employees of the Maryland-National Capital Park and Planning Commission for the purpose of influencing any actions of the Commission, the Planning Boards, the Merit System Board, or the employees, in the performance of legislative or quasi-legislative functions.

DEFINITIONS For the purpose of this practice the following words are defined:

(a) Lobbyist: Means a person who:

(1) Receives \$500 or more as compensation, or

(2) Expends a cumulative sum of \$100 or more during a fiscal year to entertain a Commissioner or employee with meals and beverages, entertainment, or other gifts*, and

LOBBYING DISCLOSURE

Rev. 12 June 1985

App. The Commission

DEFINITIONS

(Continued)

(3) Communicates orally or in writing with any Commissioner or employee for the purpose of influencing any action which that Commissioner or employee is authorized to take in the performance of legislative or quasi-legislative functions.

(b) Legislative or Quasi-Legislative Function: The preparation and adoption of rules and regulations to direct the operation of the Commission, the Planning Boards, and the Merit System Board.

EXEMPTIONS

(a) This practice does not apply to the following:

(1) Professional services by any Commissioner or employee of the Commission in drafting or in advising and rendering opinions as to the construction and effect of proposed or pending actions where these services do not otherwise constitute activities as a lobbyist.

(2) Appearances before the Commission, Planning Board, or any committee, upon its specific invitation or request, but only if the person engages in no further or other activities in connection with the passage or defeat of proposed actions.

(3) Appearances as part of the official duties of a duly elected or appointed official, or employee of the state, or a political subdivision of the state, or of the United States, and not on behalf of any other entity.

(4) Actions of a publisher or working member of the press, radio, or television in the ordinary course of business of disseminating news or making editorial comment to the general public, but who does not engage in further or other lobbying that would directly and specifically benefit the economic, business, or professional interests of that person or that person's employer.

(5) Appearances as a witness before the Commission, or Planning Board, or a committee at the specific invitation or request of a lobbyist, provided no other act is undertaken for which reporting is required, and provided the witness identifies himself as appearing at the request of the lobbyist.

(6) The representation of a bona fide citizens' organization solely for the purpose of protecting the rights of its own members.

AUTHORIZATION

Authorization of Lobbyist to Act

Every employer of a lobbyist shall furnish a written and signed authorization to act which shall be filed with the Commission by the lobbyist at the time he acts pursuant to the authority. If the employer is a corporation, any authorized officer or agent shall furnish and sign the written authorization. The authorization shall include the full and legal name and business address of both the employer and the lobbyist, the period of time during which the lobbyist is authorized to act, unless sooner terminated, and the subject matter upon which the employer is represented.

REGISTRATION

Registration of Lobbyist with the Commission

- (a) Except as exempted above the following persons shall register with the Commission:
- (1) A lobbyist
 - (2) Any person who has expended \$500 or more for compensation of one or more lobbyists in a fiscal year; and
 - (3) Any person who expends \$2,000, including postage, during any fiscal period for the express purpose of soliciting others to communicate with any Commissioner or employee to influence any Commission action.
- (b) On or before January 31st of each year if required, and, in any event, not later than five days after first authorized to perform any act requiring registration under this practice, every person required to register with the Commission pursuant to subsection (a) shall provide the following information, where appropriate, on a form approved by the Commission and provided by the Executive Director:
- (1) Lobbyist's (or other person's) name and permanent address;
 - (2) The name and permanent address of each person who is required to register under this practice and who will lobby on the registrant's behalf as applicable.
 - (3) The name, address, and nature of business of any person who compensates the lobbyist accompanied by the lobbyist's statement that he is authorized to represent that person and that the person will be exempt from the provisions of this practice.

REGISTRATION
(Continued)

- (4) The identification, by formal designation, if known, of matters on which the lobbyist expects to act or employ someone to act in a manner which requires registration under this practice.
- (c) A lobbyist shall file a separate registration for each employer.
- (d) Each registrant may file a notice of termination within 30 days after ceasing any activity that requires registration and file the reports required hereunder.

Reports of Lobbying to the Commission

REPORTS

- (a) Each registrant shall file with the Commission, one report per year under oath concerning his/her lobbying activities. The report shall be filed by January 31st, covering the previous calendar year. If the registrant is not an individual, an authorized officer or agent of the registrant shall sign the form. Each lobbyist shall file a separate activity report for each person from whom he receives compensation. The report shall include:
- (1) A complete and current statement of the information required to be supplied pursuant to this practice.
- (2) Total expenditures on acts requiring registration in each of the following categories:
- (i) Total compensation paid to the registrant not including either expenses reported under subparagraphs (ii) through (ix) or salaries, compensation, and reimbursed expenses for the staff of the registrants;
 - (ii) Office expenses of the registrant not reported in subparagraph (i) of this subsection;
 - (iii) Professional and technical research and assistance not reported in subparagraph (i) of this subsection;
 - (iv) Publications which expressly encourage persons to communicate with officials or employees;
 - (v) Names of witnesses, and the fees and expenses paid to each;

REPORTS
(Continued)

- (vi) Meals and beverages for officials, or employees, or their immediate families;
 - (vii) Entertainment, including parties, dinners, athletic events, and other functions to which all members of the Commission and employees are invited;
 - (viii) Expenses of food, lodging, and scheduled entertainment of Commissioners and employees for a meeting which is given in return for participation in a panel or speaking engagement at the meeting;
 - (ix) Other gifts to or for Commissioners, or employees, or their immediate families; and
 - (x) Any other relevant expenses.
- (3) The name of each Commissioner, or employee, or member of his immediate family, who has benefited from gifts with accumulative value of \$75 or more during the reporting period given by the registrant or anyone acting in behalf of the registrant, whether or not the gifts were given in connection with the registrant's lobbying activities. For the purpose of this subsection, gifts totaling less than \$15 in a calendar day need not be counted toward the cumulative value of \$75, but if the cumulative value of \$75 is attained or exceeded, each gift of \$15 or more, thereafter, shall be itemized by date, recipient, amount of value, and the nature of the gift. Expenses reported for each meeting, event, seminar and the date, location, and total expense incurred by the registrant shall be stated without allocation of expenses to each individual participant.
- (b) The Commission may require any registrant to file additional reports as it may deem necessary.

Notice to Commissioner or Employee Named in Report

If any report filed with the Executive Director contains the name of Commissioner, or employee of the Commission, or member of his immediate family, the Executive Director shall notify the Commissioner or employee within 30 days, with a copy of such notification sent to the Commission.

REPORTS
(Continued)

Following notification of inclusion of his name in a report filed by a registrant, Commissioner or employee shall have 30 days to file a written exception or explanation to the inclusion of his name.

ENFORCEMENT

The Maryland-National Capital Park and Planning Commission will enforce strict compliance of its practice by taking appropriate legal measures for this purpose.