



OFFICE OF THE  
INFORMATION & PRIVACY  
COMMISSIONER  
— for —  
British Columbia

## **Report on Registration of Ken Dobell Under the *Lobbyists Registration Act***

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### 1. Report Overview

[1] On April 18, 2007 concerns were raised in the Legislative Assembly about the lobbyist activities of Ken Dobell that caused me to initiate, the next day, my own independent review of his registration under the *Lobbyists Registration Act*<sup>1</sup> ("LRA").

[2] Mr. Dobell was Deputy Minister to the Premier until he retired from the provincial public service in June 2005 and began a consultancy business through his company Dobell Advisory Services Inc. ("DAS"). As part of that business he accepted, later in 2005, a contract as special advisor to the Premier in various areas and he also accepted, in 2006, a contract as advisor to the City of Vancouver ("City") and the City Manager respecting development of a cultural precinct and social housing matters.

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<sup>1</sup> S.B.C. 2001, c. 42.

[3] The initial concern raised was that Mr. Dobell did not register under the LRA until several months after the start dates he reported for his undertakings to lobby for the City. This was a relatively straightforward question because the LRA requires a consultant lobbyist—the category in which Mr. Dobell registered—to file a return within 10 days after entering into an undertaking to lobby on behalf of a client. Mr. Dobell's filings with the Lobbyist Registry disclosed that he had entered into undertakings to lobby on behalf of the City beginning on April 5, 2006 and September 1, 2006, but he did not request an account to file a return under the LRA until October 14, 2006 and was not registered until October 28, 2006. On the face of the information Mr. Dobell reported under the LRA, it appeared plain that his return had not been filed on time.

[4] Mr. Dobell then brought forward the potentially more complex question of whether the nature of the services he provided to the City required him to register under the LRA at all. He said that he was not a lobbyist within the meaning of the LRA and had only registered after a lawyer with the City suggested he should consider doing so, with the argument being that there could be no question of filing a late return because he was not even required to register in the first place.

[5] Mr. Dobell took the position that the generally accepted view is that a 'lobbyist' is someone who uses their influence to arrange meetings and introduce people to bring them together, but who does not participate in substantive work that follows. He characterized the role of the lobbyist as a pejorative one. He identified himself as a 'content consultant', since he said his services directly involved the substantive work of policy and process analysis by examining existing approaches to problems—particularly complex ones such as homelessness—and developing options for addressing those problems. He indicated that his communications with provincial government officials were much more in the nature of public policy discussions or debate than lobbying. He also maintained that there was an important distinction between his services to government, which he said were in the public interest, and consulting services to private interests.

[6] I have concluded that Mr. Dobell undertook and performed contract services for the City that were lobbying within the meaning of the LRA. If Mr. Dobell had been a City employee, section 2(1)(d)—which excludes local government authorities, their elected officials and employees—would have excluded his activities from the LRA. Because he was a contract consultant and not a City employee, he was required by section 3(1)(a) of the LRA to register as a consultant lobbyist within 10 days after he started undertakings to lobby on behalf of the City on April 5 and August 16, 2006.

[7] The LRA is a system for the registration of lobbyists. There are few oversight or compliance mechanisms in the legislation. Its effectiveness lies

almost entirely in the ability to self-assess and the good faith of those who are required to register. This feature is one of a number of aspects of the LRA which merit review from a public policy perspective. This review highlights that, if a lobbyist registration system in British Columbia is going to function properly for those engaged in lobbyist activity, for public office holders and for the public then—whether in its current minimalist form as a self-reporting public registry or as a more comprehensive regulatory regime—the following changes are needed:

- language in the LRA that lends itself to associating legal lobbying activity with conduct such as influence peddling must be removed,
- perceptions of discredit around registration as a lobbyist must be dispelled,
- the requirement to register must not rest on complex or technical interpretations of excessively malleable statutory language,
- there needs to be a widespread commitment to simple and unstigmatized disclosure,
- public expectations, and needs, for oversight of the lobbyist registration system must match the allocated compliance and enforcement powers and resources, and there must be candid acknowledgment that the current system is not geared or funded to undertake active—much less extensive—compliance and enforcement measures.

[8] It bears emphasis that Mr. Dobell's advisory roles for the City were not intended to be hidden and in fact were not hidden. For both contracts, the City agreed to provide Mr. Dobell with business cards designating him as a special advisor to the City or advisor to the City Manager and, from what I have been able to ascertain, his role as a City advisor and representative would have been in full and plain view in his meetings and discussions with stakeholders, interested agencies and public office holders. Mr. Dobell is a well-known and visible public figure and has been so for many years. The fact that he registered late under the LRA may have lessened the public visibility of his role as advisor to the City in some measure, since that information was not available through the Registry of Lobbyists for a period of time, but his role as advisor to the City would appear to have been evident throughout to those with whom he met and communicated in that capacity.

[9] The purpose of the Lobbyists Registry is transparency. There was in my view no intention by the City or Mr. Dobell to hide the consulting contracts. Mr. Dobell has said that he decided to register, not because he believed he was a lobbyist, but to deal with any question of compliance with the LRA and to be completely open and transparent. For Mr. Dobell the simple and straightforward way of answering the question was just to register. Transparency to him took precedence, as it should, to perceived technicalities around the requirements of the LRA. Registration was also, in my opinion, the correct and required course of action under the legislation.

## 2. Mandate for the Review

[10] The LRA creates a self-reporting system for the registration of lobbyists. It designates the Information and Privacy Commissioner under the *Freedom of Information and Protection of Privacy Act*<sup>2</sup> as registrar of lobbyists. I have therefore conducted this review as the independent officer of the Legislature who is the registrar designated under the LRA.

[11] The registrar has a limited role to verify information provided in filings under the LRA, to request clarifying information about filings or to reject filings. The registrar has no formal complaint-handling or investigative powers. Quite deliberately, in my view, the registrar's mandate, powers and resources do not support external investigative work. I therefore concluded that I did not have any legal authority to compel Mr. Dobell or anyone else to testify under oath or otherwise to cooperate with my review.

[12] When I contacted Mr. Dobell on April 19, 2007, he readily agreed to cooperate with my review and he has throughout cooperated with me and done everything that I have requested of him. I asked him at the outset to provide clarifying information about his filings under the LRA and, given the public attention that his registration as a lobbyist had received, I also asked him to be interviewed under oath, which he readily agreed to do.

[13] I told Mr. Dobell that I would prepare this report and that I intended to make it public. When preparing this report, I carefully considered all of the information that Mr. Dobell gave me, submissions from his lawyer, information found in the lobbyist registration system and his public statements about his registration under the LRA.

[14] I made my intentions regarding this review public in a statement issued on April 27, 2007. This included the fact that I would not venture into conflict of interest allegations that had been made against Mr. Dobell, since these are beyond the scope of the LRA and the mandate and role of the registrar.

## 3. Canadian Lobbyist Registration Legislation

[15] Lobbyist registration legislation is fairly new in Canada. The first federal statute was enacted in 1988, while the LRA was enacted in 2001 and brought into force on October 28, 2002.

[16] It is widely acknowledged that lobbyist registration legislation is not intended to prohibit, suppress or stigmatize the democratic right to free and open access to government. Communicating with government about its development

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<sup>2</sup> R.S.B.C. 1996, c. 165.

of laws, policies and programs, or awarding of benefits such as grants or contracts, is a legitimate and in fact necessary activity. There is, at the same time, a significant public interest in ensuring transparency around communications with government. Some communications with public office holders are inherently transparent—e.g., formal submissions made in public hearings. Because other communications with government are not transparent in this way, the purpose of lobbyist registration laws is to ensure a degree of transparency for both public office holders and the public about who is dealing with government and about what.

[17] There are, of course, communications with public office holders that either do not warrant or are not appropriate for disclosure through a public lobbyist registry, e.g., government-to-government communications and communications by constituents on personal matters with their member of the Legislative Assembly. Accordingly, lobbyist registration laws typically exempt certain communications from registration.

[18] The following is a useful snapshot of the kinds of lobbying that lobbyist registries are intended to capture:

#### **What does Lobbying look like?**

The conventional view is often that lobbying involves some form of questionable interaction with government. This typically would include arm-twisting, providing gifts and favours, quiet back room meetings, favourable decisions in exchange for campaign contributions, using friends of politicians to get meetings that would not otherwise have been granted without the lobbyist's intervention, etc.

However...many writers and commentators in Canada and the U.S. from academics to industry representatives, stress a more neutral or "professional" approach. This is not to suggest that the above archetypal negative behaviours do not exist in the U.S. or Canada, but rather that Lobbyist Registries are, for the most part, about regulating *legal* activities. In effect, they capture what is considered "legal" lobbying. In that sense, they are not generally intended to prevent illegal or unethical behaviour on the part of the lobbyists or public officials.

In most jurisdictions, illegal or unethical behaviour is generally dealt with through other pieces of legislation or administrative policy. These, for example, include conflict of interest policies and legislation governing public officials, whistle blowing policies and legislation, components of procurement policies dealing with conflict of interest or inappropriate behaviour on the part of bidders and their lobbyists, campaign financing legislation, etc.

### Examples of Lobbying in its Ideal Form

The literature indicates that there is something akin to an “ideal” form of lobbying that is positioned for the most part as a form of strategic or tactical intelligence for organizations that want to be effective in their dealings with government.

...each of these examples stresses the role of the lobbyist as a strategist/advisor who is knowledgeable about how government works in practice as opposed to theory, e.g. decision-making processes, culture, current political priorities, relative priority of issues, alternative viewpoints, etc. All three examples come from the perspective that government decision-making processes are not generally transparent or easily understood by “outsiders” and that the reality of the process differed considerably from the published theory.<sup>3</sup>

[19] Some lobbyist registration regimes are not aimed only at transparency through a lobbyist registry. These systems incorporate conduct standards as well as powers, administrative structures and resources for compliance investigation and reporting. Canada’s federal lobbyist registration legislation, for example, requires the registrar to develop a lobbyist code of conduct with which lobbyists must comply. The federal Lobbyists’ Code of Conduct states three principles (integrity and honesty, openness and professionalism) and eight rules that fall under three headings (transparency, confidentiality and conflict of interest). The rules under the conflict of interest heading read as follows:

#### 6. Competing Interests

Lobbyists shall not represent conflicting or competing interests without the informed consent of those whose interests are involved.

#### 7. Disclosure

Consultant lobbyists shall advise public office holders that they have informed their clients of any actual, potential or apparent conflict of interest, and obtained the informed consent of each client concerned before proceeding or continuing with the undertaking.

#### 8. Improper Influence

Lobbyists shall not place public office holders in a conflict of interest by proposing or undertaking any action that would constitute an improper influence on a public office holder.<sup>4</sup>

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<sup>3</sup> “Lobbyist Registration, Volume 1: Comparative Overview”, November 2003 (research paper for the Report of the Toronto Computer Leasing Inquiry/Toronto External Contracts Inquiry, 2005, Bellamy J, Commissioner).

<sup>4</sup> Lobbyists’ Code of Conduct under the *Lobbyists Registration Act*, R.S.C. 1985, c. 44.

[20] British Columbia's law, in contrast to the federal law, neither sets conduct standards for lobbyists nor regulates their communications with public office holders. Its more modest aim is to ensure the disclosure of lobbying activity through self-assessed and reported information that is made accessible to the public in the Lobbyists Registry. To that end, the LRA is structured around:

- identifying two kinds of lobbyists: the “in-house lobbyist” and the “consultant lobbyist”,
- defining what it means to “lobby”,
- excluding some specific persons and activities from the application of the legislation,
- otherwise requiring lobbyists to register and keep their filings in the Lobbyists Registry up-to-date, and
- making the Lobbyists Registry accessible to the public through on-line access.

[21] The LRA creates offences for failure to file a required return and for submitting false or misleading information in a return, but nothing more. For good or ill, the value of British Columbia's lobbyist registration system rests on the willingness and ability of those whose activities may fall under the LRA to grapple with whether the law applies to what they are doing and then reliably comply with the registration requirements.

#### **4. Relevant Statutory Provisions**

[22] The LRA defines many of the terms that are relevant to this report. It defines an “in-house lobbyist” as

...an individual who is employed by a person or organization and a significant part of whose duties as an employee is to lobby on behalf of

- (a) the employer, or
- (b) if the employer is a corporation, on behalf of any subsidiary of the employer or any corporation of which the employer is a subsidiary;

[23] The LRA stipulates that employees of the Legislative Assembly, of the provincial government or of provincial corporations are not in-house lobbyists. This is clearly aimed at ensuring that communications and activities occurring within government do not require registration under the LRA.

[24] The other kind of lobbyist that the LRA covers is the “consultant lobbyist”, which is defined as “an individual who, for payment, undertakes to lobby on

behalf of a client". The related term, "payment", is defined as "money or anything of value" and this includes "a contract, promise or agreement to pay money or anything of value". The term "undertaking", which is used in the consultant lobbyist definition and elsewhere in the LRA, is defined as "an undertaking by a consultant lobbyist to lobby on behalf of a client". A "client" is defined as "a person or organization on whose behalf a consultant lobbyist undertakes to lobby" and "organization" is defined as:

- (a) a business, trade, industry, professional or voluntary organization,
- (b) a trade union or labour organization,
- (c) a chamber of commerce or board of trade,
- (d) a charitable or non-profit organization, association, society, coalition or interest group, and
- (e) a government, other than the government of British Columbia;

[25] The meaning of the term "lobby" is at the core of the definitions of in-house lobbyist and consultant lobbyist and defines the activities that trigger the requirement to register under the LRA. The definition of "lobby" reads as follows:

"lobby" means,

- (a) in relation to either a consultant lobbyist or an in-house lobbyist, to communicate with a public office holder in an attempt to influence
  - (i) the development of any legislative proposal by the government of British Columbia or by a member of the Legislative Assembly,
  - (ii) the introduction of any bill or resolution in the Legislative Assembly or the amendment, passage or defeat of any bill or resolution that is before the Legislative Assembly,
  - (iii) the making or amendment of any regulation as defined in the *Regulation Act* or any order in council,
  - (iv) the development or amendment of any program or policy of the government of British Columbia, or
  - (v) the awarding of any contract or financial benefit by or on behalf of the government of British Columbia, and
- (b) in relation only to a consultant lobbyist, to arrange a meeting between a public office holder and any other person.

[26] The LRA defines "public office holder" to include:

- a member of the Legislative Assembly or a person on the staff of a member,
- an officer or employee of the provincial government,

- a person whose appointment is made or approved by the provincial Cabinet or a minister of the provincial government, and
- an officer, director or employee of a provincial government corporation.

[27] Section 2 of the LRA lists specific persons and activities that are excluded from the legislation. Section 2(1)(d), which excludes local government authorities, reads as follows:

- 2(1) This Act does not apply to any of the following persons when acting in their official capacity:...
- (d) members of municipal, regional district board, improvement district board, school district board or other local government authority, persons on the staff of those members, or employees of a municipality, regional district, improvement district, school district or other local government authority.

[28] Under this exemption, local government officials and employees are not subject to the LRA when they make representations directly to the provincial government, but any person—such as a consultant or lawyer—who lobbies on behalf of a local government authority is subject to the LRA, and must register as a consultant lobbyist, in relation to those activities.

[29] Section 2(2) of the LRA excludes certain oral or written submissions from the registration requirements. Subsections (b) and (c) exclude such submissions when they are:

- (b) made to a public office holder by an individual on behalf of a person or organization concerning
  - (i) the enforcement, interpretation or application of any Act or regulation by the public office holder with respect to the person or organization, or
  - (ii) the implementation or administration of any program, policy directive or guideline by the public office holder with respect to the person or organization;
- (c) made to a public office holder by an individual on behalf of a person or organization in direct response to a written request from a public office holder for advice or comment on any matter referred to in paragraph (a) of the definition of “lobby” in section 1(1).

[30] Section 3 of the LRA requires lobbyists to file returns. A consultant lobbyist is required to file a return “within 10 days after entering into an undertaking to lobby on behalf of a client”. For each undertaking the consultant lobbyist files one return and may engage in or arrange multiple communications or meetings with multiple public office holders and other persons. Sections 7 and 8 require the registrar to keep a registry—the Lobbyists Registry—of all returns

and other documents submitted under the LRA and to establish a means of making the Lobbyists Registry available for public inspection (on-line public access is in place).

[31] A great weakness of the LRA is its use of the language “communicate...in an attempt to influence” in the definition of “lobby”. This language, which is admittedly common in lobbyist registration legislation in the United States and in Canada, is problematic for two reasons. First, it incorporates an imprecise and difficult-to-prove mental element—*i.e.*, the requirement of an intention “to attempt to influence” on the part of the person who communicates with the public office holder. For this reason, in 2003 language of this kind was removed in the federal *Lobbyists Registration Act* and replaced by “communicate...in respect of”. This shift to a focus on the act of communicating was considered necessary because it was seen to be all but impossible to enforce the standard of communication in an “attempt to influence” where a person simply refused to register as a lobbyist and was being pursued.<sup>5</sup>

[32] The second reason the use of “communicate in an attempt to influence” is problematic—and another reason why this wording was replaced in the federal legislation—is because it resembles the conduct known as “influence pedaling”, even though the LRA’s purpose is to promote transparency respecting otherwise legitimate communications with public office holders, not to stigmatize those legal and proper activities.

[33] In light of the conclusions I have reached about Mr. Dobell’s activities on behalf of the City, it is desirable to discuss in some detail a distinction that the LRA draws in its definition of the term “lobby”. Clause (b) of the definition of “lobby”, in contrast to clause (a) of the definition of “lobby”, focuses on the act of arranging a meeting with a public office holder. Clause (b) applies only to consultant lobbyists and there is no requirement for the meeting with the public office holder to be for the purpose of lobbying, for any lobbying activity to happen at the meeting or for anyone to have any intent to attempt to influence government. Clause (b) merely requires that the consultant lobbyist “arrange a meeting between a public office holder and any other person”. This part of the definition of “lobby”, including its application only to consultant lobbyists, is common in lobbyist registration legislation in other Canadian jurisdictions.

[34] The omission of consultant lobbyists from the legislative exclusions found in section 2(1), and the inclusion of only consultant lobbyists in clause (b) of the definition of “lobby”, indicate a policy to require greater public transparency about

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<sup>5</sup> The legislative history is described in *Democracy Watch v. Canada (Attorney General)*, [2004] F.C.J. No. 1195 (T.D.), at para. 5, and is also described by A. Paul Pross in “The *Lobbyists Registration Act*: Its Application and Effectiveness” (part of *Research Studies: Volume 2, The Public Service and Accountability in Restoring Accountability*, Report of the Canada Commission of Inquiry into the Sponsorship Program and Advertising Activities, 2005, Gomery J., Commissioner).

contacts between paid consultants and government than is required for direct interest group-to-government or government-to-government contacts.

[35] This policy has been described in the following way as regards the “arranging meetings” aspect of lobbying by consultant lobbyists in the federal *Lobbyists Registration Act*:

There is a certain logic in the Act’s distinction between consultant lobbyists and in-house lobbyists when it comes to arranging meetings. Stakeholders (e.g., interest groups, trade unions and companies) routinely meet with government officials. While the communication that occurs at those meetings is subject to registration, Parliament has indicated that the administrative act of arranging meetings, so long as it is handled by the employees of the corporation or organization, need not be subject to the same scrutiny. On the other hand, hiring a third party to arrange meetings—baldly stated, paying an intermediary to obtain access—is felt to deserve a higher degree of transparency and disclosure.

Note that when a consultant lobbyist, for payment, arranges a meeting with a public office holder, that activity is covered by the Act regardless of the subject matter of the meeting. It does not matter that the meeting might ostensibly be personal, social, or unrelated to government business. The Act concerns itself with any hiring of an outside consultant to obtain access to a government official, not with how access is used.<sup>6</sup>

## **5. Facts**

### **5.1 Contracts with the City**

[36] Mr. Dobell entered into two contracts with the City through his company, DAS.

[37] The first contract, relating to the development of a cultural precinct, was executed effective October 16, 2006. The term of the contract is April 5, 2006 to September 30, 2007 and the start date for the contract services is also April 5, 2006. At some point the term of this contract was apparently extended to December 31, 2007.

[38] Mr. Dobell’s first account to the City on the cultural precinct contract was dated October 2, 2006 for services starting on April 5, 2006.

[39] The second contract, relating to social housing, was executed effective October 30, 2006. The term of the contract is October 1, 2006 to May 30, 2007

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<sup>6</sup> Pierre B. Meunier and others, *Lobbying in Canada*, looseleaf (Thomson Carswell, 2004) at 1E-10.

but the start date for the contract services is August 15, 2006. The term of this contract was apparently also extended to December 31, 2007.

[40] Mr. Dobell's first account to the City on the social housing contract was dated October 2, 2006 for services starting on August 16, 2006.

[41] Mr. Dobell explained that he began working on the cultural precinct project on April 5, 2006 and on the social housing project in August of 2006. The contracts for his services were not formalized until October 2006, however, because of his negotiations with the City and its own administrative processes. City staff drafted both contracts although Mr. Dobell contributed a template.

[42] He also explained that shortly before the contracts were signed, a lawyer at the City provided what Mr. Dobell characterized as informal "friendly advice" to the effect that he should consider registering as a lobbyist under the LRA because it might cover his work. Mr. Dobell did not agree that his work for the City required him to register under the LRA, but decided that it would be sensible to register as there did not appear to be any downside to doing so.

## **5.2 Registration as a lobbyist**

[43] On October 14, 2006, Mr. Dobell initiated registration in the Lobbyists Registry. After he completed an on-line return and paid the registration fee, he was registered as a consultant lobbyist for the City effective October 28, 2006.

[44] He reported two undertakings to represent the City "in discussions with governments in relation to the development of a cultural precinct and in housing matters". The undertaking relating to the development of a cultural precinct was reported to have started April 5, 2006 and to end December 31, 2007. The undertaking relating to housing was reported to have started September 1, 2006 and to end January 2, 2007. Mr. Dobell later updated this end date twice, to June 30, 2007 and then to December 31, 2007.

[45] Effective October 22, 2006, Mr. Dobell also registered as a consultant lobbyist under the federal *Lobbyists Registration Act*. The City was disclosed as the client on his first registration, for which he described the "Areas of Concern" as Arts and Culture, Infrastructure, Regional Development and Housing and he described the "Policy or Program" as Housing Policy and Development of Cultural Infrastructure. The provincial government was disclosed as the client on his second registration, for which he described the "Areas of Concern" as Aboriginal Affairs, Environment, Infrastructure, International Trade, Regional Development and Transportation and he described the "Policy or Program" as Pacific Gateway, Transportation, Infrastructure and Port Development and Forest Management. Mr. Dobell listed the same "Communication Techniques" for both registrations: "Arrange one or more meetings, Meetings, Presentation, Written

communications, whether in hard copy or electronic format, Telephone calls, Informal communications”.

### **5.3 Responsibilities under the cultural precinct contract**

[46] Schedule “A” of the cultural precinct contract provided the following background to the project:

On March 21 2006 City Council endorsed a City-led planning process with financial support from and in cooperation with the Province of British Columbia to develop a multi phased major downtown cultural precinct and accepted a contribution of \$5 million from the Province which, along with matching City funds, is held for the purpose of planning and conceptual development of the cultural precinct. Council also authorized the City Manager to retain a Project Manager to lead the Cultural Precinct planning process.

[47] Mr. Dobell was retained to manage the planning process on behalf of the City and in cooperation with the provincial government. The scope of the contract services included:

- reviewing all pertinent background materials,
- interviewing key stakeholders,
- working with a Community Advisory Committee to review proposals,
- supporting an Advisory Committee comprised of the Premier, the Minister of Tourism, Sports and the Arts, the Mayor and a Councillor (the “Advisory Committee”),
- supporting a Steering Committee comprised of senior City and provincial staff to oversee the development and evaluation of proposals (the “Steering Committee”),
- evaluating proposals and recommending viable projects,
- evaluating and providing advice on project definition, phasing and costs,
- evaluating and recommending site options,
- evaluating and recommending development models,
- evaluating and recommending operational models,
- liaising with provincial government representatives responsible for the development of a First Nations advisory group/organization mandated to oversee the development of an Aboriginal art gallery,
- facilitating exploration of potential cultural and financial benefits that could be created through collaborative initiatives, and
- evaluating and recommending funding requirements and strategies.

#### **5.4 Services performed under the cultural precinct contract**

[48] Mr. Dobell submitted a series of accounts to the City for work he performed under the cultural services contract from April 5, 2006 to March 26, 2007. The accounts, in combination with documentation and information he provided when I interviewed him, indicate that he performed the following services for the City under that contract:

- Between April 2006 and March 2007, as he acknowledged when I interviewed him, Mr. Dobell both arranged and attended meetings with various cultural group stakeholders and federal and provincial public office holders.
- In July 2006 he co-authored a preliminary report on the cultural precinct project with Sue Harvey, Managing Director of Cultural Services for the City. The report indicated that the City had supported the development of a cultural precinct for some time while the provincial government had expressed an interest in the development of a national Aboriginal art gallery and a centre for Asia-Pacific trade and culture. It noted that the total cost of all of the proposed facilities would be in the order of \$700 million to \$1 billion and recommended, amongst other things, that the City develop a special proposal and request for senior government funding by October 2007.
- In early July 2006 he made a presentation to the Advisory Committee on the status of the project, potential funding for civic theatres and commitments for future development. During my interview of him, Mr. Dobell acknowledged that funding was discussed in the context of determining whether the provincial government would participate in a joint city-provincial proposal to the federal government. He also acknowledged that the City was interested in getting a commitment, or at least an indication of intent to commit, for funding from the provincial government.
- On August 10, 2006 he met with Bruce Okabe, who had taken over from Virginia Greene as Deputy Minister of Tourism, Arts and the Sports, to explain the cultural precinct project to him.
- On September 11, 2006 he met with Premier Campbell to explore common ground between the City and the provincial government with respect to the project. Mr. Dobell acknowledged that there was a discussion of funding and the reasons why the provincial government should contribute.
- On September 15, 2006, he wrote a two-page note to the Honourable Stan Hagen, the new Minister of Tourism, Arts and the Sports, to provide an “informal briefing on the history of the cultural precinct and the current status of discussions”. The note indicated that when the Steering Committee had met, Premier Campbell and the Honourable Olga Ilich (Minister Hagen’s

predecessor in the Tourism, Sports and the Arts portfolio) were concerned about the timeframe for the project and wanted to see some presence for the Olympics. They also raised some issues that were to be addressed in changes to the planned report to City Council, including the provincial government's agreement to lead the process related to the Aboriginal gallery (which would possibly be a provincial rather than a federal project). A few days after the meeting, Premier Campbell asked Mr. Dobell to see if the report to City Council could be withdrawn for further discussion and this was done. The note said they were waiting for the next meeting of the Steering Committee and that the City intended to report to City Council the next month with most of the original report directions intact. The note also indicated that Premier Campbell had raised some issues about the theatre upgrades, while the City saw the upgrades as the linchpin of the cultural facilities program. Mr. Dobell concluded in the note that this would be a major issue on the table when the Steering Committee met again, it would need to be resolved to "unblock" the discussion and a combined proposal could achieve that resolution.

- On September 21, 2006 he had a further meeting with Premier Campbell, Minister Hagen and City officials to review a joint proposal. There was some discussion of the funding that the provincial government would commit to in the context of negotiating a package that would be acceptable to all three levels of government.
- In October 2006 he worked on a draft of a funding request for submission to the federal government and attended a further meeting with public office holders.
- On October 21, 2006 Mr. Dobell and Ms. Harvey completed their report on the planning process for development of the cultural precinct. The report, which was presented to City Council on October 31, 2006, recommended a coordinated planning partnership between the City and the provincial government. The report indicated that the initial phase of the cultural precinct would permit an application for federal and provincial funding in the fall of 2006 for consideration in the 2007/8 budgets, with design and tendering for renovation of the civic theatres starting immediately and construction of the balance of the project following City Council's consideration of the longer term planning process. Among other things, the report recommended that the City ask the provincial government to join in an invitation to the federal government to discuss ongoing investment in operational support for programming to animate the proposal cultural facilities. It also recommended that the City invite federal and provincial governments to join with VANOC—the Vancouver Organizing Committee for the 2010 Olympic and Paralympic Winter Games—and the City for the coordinated planning of Vancouver Olympic Live Sites.

- In early 2007 Mr. Dobell attended two meetings with representatives of Partnerships BC to discuss the potential for proceeding with the second phase of the cultural precinct development by way of a public private partnership.

## **5.5 Responsibilities under the social housing contract**

[49] In early August 2006 the City Manager, Judy Rogers, contacted Mr. Dobell to explore alternative planning options to address the issue of homelessness in Vancouver. He agreed to create a model for housing for the homeless that would “involve the community” and make it a community issue.

[50] Mr. Dobell was contracted as an advisor to the City Manager to provide advice, to carry out planning, discussions and negotiations relating to the development of social housing and supported housing programs in the City. The work plan in Schedule “A” of the social housing contract described the scope of the contract services to include:

### ***Work Plan***

- initial work to establish the business plan and demonstrate preliminary feasibility, in consultation with City officials and interested agencies, to present a compelling case to community leaders,

### ***October 2006 to January 2007***

- assessing the viability of certain models,
- assessing potential for additional contributions from the City,
- analyzing SRO economics,
- identifying key short and medium term interventions,
- preparing initial program proposal,
- seeking broad agency support for proposal and creation of a community based foundation,
- preparing program material for presentation to community leaders and information discussion to assess viability,

### ***February to March 2007***

- establishing, subject to support from Council and community leaders, initial funding program and working on early priorities (fund raising, initial negotiations for senior government funding support and specific projects),

***March 2007 forward***

- planning and implementation steps for short term actions, including establishing funding and the three year implementation program,
- developing legislative, funding and tax strategies for medium and long term implementation, and
- establishing detailed work plan following initial analysis and business plan.

**5.6 Services performed under the social housing contract**

[51] Mr. Dobell submitted a series of accounts to the City for work he performed under the social housing contract from August 16, 2006 to March 30, 2007. The accounts, in combination with documentation and information he provided when I interviewed him, indicate that he performed the following services for the City under the social housing contract:

- In the early months of the project, Mr. Dobell attended meetings with representatives from BC Housing, particularly Shayne Ramsay (CEO of BC Housing) and Brenda Eaton (Chair of BC Housing), which he characterized as “information-gathering and information-sharing” meetings. Mr. Dobell, Mr. Ramsay, Don Fairbairn, Cameron Grey and Jacqui Forbes-Roberts formed the Homelessness Steering Committee under Ms. Forbes-Roberts’ leadership, which met regularly to discuss the social housing project. He also met with Alison MacPhail of the Ministry of Solicitor General because of the City’s interest in the provincial government’s community courts program and its implications for social housing.
- On December 11, 2006 he met with the Honourable Rich Coleman, Minister of Housing, to explain the work being done on the social housing project and to encourage his support for it.
- On February 16, 2007 he met with Ms. MacPhail to get an update on the status of the community court project. He also met that day with Cairine MacDonald, Deputy Minister of Employment and Income Assistance, and David Morhart, Deputy Solicitor General. The meeting was held at Ms. MacDonald’s request, as she wanted to explore whether the social housing project would add any value to the provincial government’s work in the area.
- On March 4, 2007 Mr. Dobell met with Minister Coleman to provide an update on the proposed social housing project.
- On March 8, 2007 he had a further meeting with Minister Coleman in preparation for public announcements that the provincial government was planning respecting the purchase of approximately 600 single-occupancy

dwelling units in Vancouver and a commitment to build 273 units of supportive housing. Mr. Dobell told me that the provincial government's initiative, while substantially similar to some of the recommendations included in the report that he and Mr. Fairbairn prepared on their funding model, was independent of anything in that report. Mr. Dobell also met on March 9, 2007 with Minister Coleman and Mayor Sam Sullivan to review the public announcements that were going to be made. Mr. Fairburn and Ms. Rogers also attended that meeting.

- On March 13, 2007 the Dobell and Fairbairn report, "Vancouver Homelessness Funding Model: More than just a Warm Bed", was presented to City Council. The report recommended, amongst other things:
  - establishment of housing targets and funding programs for interim upgrades of existing single room occupancy hotels and construction of new supportive housing;
  - continued effort through bylaw and legislated changes to provide additional resources for the creation of non-market housing;
  - creation of a limited partnership to attract private and charitable investment;
  - creation of a new foundation, with community and government representation, to receive charitable contributions; and
  - upgrading support levels through increased government funding (via BC Housing and Vancouver Coastal Health Authority).

The report also indicated that the provincial government must be prepared to expand the provision of rent subsidies and funding for support services as a consequence of the expanded delivery of supportive housing. The report concluded that implementation of the proposed plan would require significant commitments from all levels of government and other agencies.

- On March 18, 2007 Mr. Dobell began developing a Memorandum of Cooperation on Homelessness between the City and the provincial government that, if finalized, will identify the commitments made by both levels of government with respect to social housing.

## **5.7 Additional information**

[52] After initiating my review of Mr. Dobell's registration under the LRA, I received a letter from City Councillor Heather Deal—writing for herself and three other Councillors—stating their understanding that the City, in discussion with City Council, had engaged Mr. Dobell regarding the cultural precinct because of his ability as a project manager and his ability to lobby senior governments. The letter also alluded to advice City Council received from the City's legal department in favour of Mr. Dobell registering as a lobbyist regarding his services

for the City. While they saw nothing wrong with Mr. Dobell liaising and meeting with federal and provincial civil servants and elected officials as part of his services to the City, Councillor Deal and her colleagues believed the rules and regulations regarding lobbying must be followed by their “lobbyist”. Councillor Deal invited me to contact her about these matters.

[53] I was also aware that public allegations, mostly relating to conflict of interest, had been made about Mr. Dobell’s activities before the April 5, 2006 start date for his cultural precinct contract with the City and, following my interview of him, Mr. Dobell invited me to speak with his successor as Deputy Minister to the Premier, Jessica McDonald, concerning discussions he believed she had with Premier Campbell before Mr. Dobell became involved with the cultural precinct project.

[54] In view of the limits of the registration system under the LRA and my mandate and powers as registrar, I decided to focus this review on whether Mr. Dobell’s responsibilities and services performed under his cultural precinct and social housing contracts with the City required him to register as a lobbyist. Accordingly, I decided not to interview Councillor Deal, Ms. McDonald or other third-party sources and did my work to clarify and verify the circumstances of Mr. Dobell’s registration as a lobbyist through information and documents obtained from him. I have not interviewed third parties or reviewed events or other issues (such as allegations of conflict of interest) that were outside my determined focus.

## 6. Review of the Facts

### 6.1 Timeliness of registration

[55] Section 3(1)(a) of the LRA requires a consultant lobbyist to file a return with 10 days after entering into an undertaking to lobby on behalf of a client. The Guide to the *Lobbyists Registration Act*, published by this office in July 2003, says this:

An **undertaking** occurs when a consultant lobbyist acts on behalf of a client. It is defined by the contract or agreement between the client and the lobbyist, not by the government activities that the lobbyist seeks to influence. An undertaking may be very broad and require lobbying on several activities, or it may be narrowly focused requiring only one activity.

[56] When I interviewed Mr. Dobell, he maintained that none of the services he performed for the City were lobbying but he also acknowledged that if his services regarding the cultural precinct required him to register as a lobbyist, then his registration in October 2006 was beyond the 10-day time limit in the LRA.

[57] For the social housing contract, Mr. Dobell said that the Guide to the *Lobbyists Registration Act* suggests that registration is not required for an agreement to lobby until actual lobbying takes place and he said that, even if he provided later services relating to social housing that were lobbying, there was a serious question whether his “preliminary work”—contacts and meetings with public office holders from August to November 2006—constituted lobbying.

[58] The Guide to the *Lobbyists Registration Act* says this:

A consultant lobbyist paid a **retainer** to provide future, but unspecified lobbying services, does **NOT** have to register. However, each time the consultant lobbyist begins active lobbying under the retainer, that is an **undertaking** and it must be registered.

[59] In Mr. Dobell’s case there was no retainer to provide future but unspecified lobbying services for the City. There was a contract for services relating to social housing that was drawn up and executed in October 2006 regarding services that had already started in August 2006. If the services in the contract, or the services as performed starting in August 2006, constituted lobbying, then Mr. Dobell was required to file a return within 10 days of the start date of the contract or the services performed under it, which he did not do.

## 6.2 Was there any requirement to register at all?

[60] Mr. Dobell told me that he never believed he was a lobbyist and only registered under the LRA because of his interaction with a lawyer at the City. Whether he was not required to register at all is a more complex question than the timeliness of his registration if it was required.

### 6.2.1 Mr. Dobell’s point of view

[61] Mr. Dobell gave several reasons for believing that he was not required to register under the LRA. He made the general observation that he was a ‘content consultant’ whose services to the City were in the nature of the analysis of content, which included substantive discussion with government officials about policy and process analysis. He said that the LRA does not apply to such services. He also gave the following reasons in relation to each of the contracts:

#### ***Services relating to the cultural precinct***

- The LRA is not intended to apply to intergovernmental discussions concerning public policy issues where the interests of the governments involved overlap (as opposed to discussions where one government seeks a benefit that is specific to itself, such as foreign governments petitioning Canada for trade concessions).

- Mr. Dobell's work on the cultural precinct was only "nominally" for the City because his meetings with public office holders took place in the context of a planning process that was undertaken with the support and involvement of the provincial government, as a collaborative project between the two levels of government. This was reflected in the fact that, while the City paid Mr. Dobell's accounts for services under the cultural precinct contract, the funds involved were granted to the City by the provincial government.
- There was no "attempt to influence" as this was a coordinated planning partnership. Mr. Dobell's communications with public office holders were not lobbying under the LRA because they were not made "in an attempt to influence" any of the outcomes listed in the definition of "lobby". Participating in the development of a project concept, where that concept is intended to fulfill the goals of all partners in the planning process, and the development of the concept is overseen by both partners, cannot amount to "an attempt to influence". That phrase—and the notion of lobbying in general—involves a clear separation of interests, which is absent here. As the City's advisor, Mr. Dobell did not communicate with public office holders because he was attempting to influence the provincial government to make some change favourable to the City. Rather, he worked on the project at the specific request of the Premier and communicated with public office holders because the City and the provincial government were jointly planning the cultural precinct and Mr. Dobell was a member of the planning team.

#### ***Services relating to social housing***

- Mr. Dobell's communications with public office holders were not made in an attempt to influence a decision or strategy development of the provincial government. Rather, he was working to devise a social housing strategy for City Council to consider.
- The LRA does not apply to the gathering or sharing of information. In developing a social housing strategy for the City and crafting the Vancouver Homelessness Funding Model, Mr. Dobell necessarily had to consult with many parties to understand what sources of funding were available and how they might best be brought together in a coordinated effort. Provincial agencies were consulted because they were among the most important sources of funding. These consultations—all of Mr. Dobell's meetings and contacts with public office holders—were entirely in the nature of information gathering, not lobbying. It is not an "attempt to influence" if one consults government officials for the purpose of understanding what policies and programs are available.
- To the extent that any of Mr. Dobell's communications with public office holders were lobbying under the LRA, they were entirely related to the implementation of the provincial government's housing policy and programs. The Vancouver Homelessness Funding Model would require the provincial government to provide new funding to BC Housing and the Vancouver Coastal Health Authority ("VCHA"), but only because of the scale of the

housing proposal, not because a new program is being established. The Vancouver Homelessness Funding Model simply seeks to draw on existing BC Housing and VCHA programs and policies.

- Lobbying necessarily involves a degree of client ‘self-interest’ that is entirely absent from Mr. Dobell’s multilateral public policy work on social housing. Mr. Dobell was developing a strategy to cope with a long-standing social problem in which all government levels have an interest. There was no lobbying for provincial action of specific benefit to the City and the funding model he proposed entailed no financial benefit to the City. The LRA is not intended to apply to multilateral public policy work of no financial benefit to the City.

### 6.2.2 Analysis

[62] The LRA does not cover volunteerism and the definitions of “consultant lobbyist” and “undertaking” clearly require a paid undertaking to lobby on behalf of a client. I will therefore first consider whether Mr. Dobell’s activities relating to the cultural precinct and social housing contracts were paid services to a client, the City. I will also consider the contention that Mr. Dobell’s work on the cultural precinct was only ‘nominally’ for the City because it was a project in which the provincial government collaborated and contributed funds for planning to the City on a matching basis.

[63] The cultural services and social housing contracts are much the same except for the term and description of the services. They are conventional agreements for retaining the services of an independent contractor. The contracting parties are the City and DAS, Mr. Dobell’s company. The City retains the services of the contractor, which the contractor is obliged to perform to a standard of care, skill and diligence maintained by persons providing, on a commercial basis, similar services. The contractor has typical reporting, record keeping, confidentiality and conflict of interest obligations to the City and may not assign the agreement or subcontract the services without the City’s consent. The City is obliged to pay the contractor’s agreed and invoiced fees and expenses. There are other unremarkable provisions for contract termination and general matters.

[64] As I see it, Mr. Dobell (through DAS) was under contract with the City for his services relating to the cultural precinct and social housing. There is no question that these were contracts for payment and that the client was the City and only the City.

[65] Turning to the cultural services contract in particular, the schedule of services starts with background that describes a City-led planning process with the financial support and cooperation of the provincial government and Council authorizing the City Manager to retain a project manager. The scope of

Mr. Dobell's work is to "manage the Cultural Precinct planning process on behalf of the City and in cooperation with the Province of British Columbia". Mr. Dobell is required to work with a Community Advisory Committee established by the City and to support key partners: an Advisory Committee consisting of the Premier, Minister of Tourism, Sports and the Arts, Mayor and a Councillor and a Steering Committee consisting of senior City and provincial government staff.

[66] In my view, the fact that the City—and Mr. Dobell as the manager of the cultural precinct planning process on behalf of the City—were working in cooperation with the provincial government does not change the fact that he was doing paid work under a contract with the City as his client. Nor does the provincial government's funding contribution to the City for planning of the cultural precinct undercut the character of Mr. Dobell's role as a consultant lobbyist engaged in an undertaking on behalf of the City. Section 4(1)(b)(iv) of the LRA requires a return filed by a consultant lobbyist to include "the name of any government or government agency that funds or partly funds the client and the amount of the funding". This is presumably because provincial government funding of a consultant lobbyist's client—in this case the City—is relevant disclosure regarding the relationship between the client and the public office holders with whom the consultant lobbyist communicates and is not because such funding undermines the very existence of an undertaking to lobby.

[67] The answer is much the same to the contention that lobbying in general—and attempting to influence in particular—involve clear separation of interests, which is said to be absent because the planning of the cultural precinct was a coordinated partnership between the City and the provincial government. In my opinion, clause (a) of the definition of "lobby" was not intended, and should not be interpreted, to be limited to coercive influence or to exclude mutually beneficial influence or collaborative effort with a public office holder. It seems to me very clear that Mr. Dobell was retained by the City on account of his ability and experience in interacting with governments, making the necessary contacts and conducting the necessary discussions to get things done. It is also clear that while the City and the provincial government wanted to work cooperatively toward goals for common good, Mr. Dobell was retained by the City to advance the City's interests in a cultural precinct and social housing.

[68] I will now address the proposition that lobbying requires client self-interest or private interest, which is also said to be absent from Mr. Dobell's social housing work, which he characterizes as multilateral public policy work entailing no financial benefit to the City.

[69] Neither the public interest nor the policy work that supports it is monolithic. Governments at all levels establish public policy to serve the public interest, but their views are often different, competing or shifting. Further, there is public interest in the flourishing of individual and private interests—e.g., economic prosperity, artistic freedom, cultural wealth and individual liberty—and many

stakeholders—e.g., non-profit interest groups, labour groups, for-profit enterprises—can claim, with legitimacy, an interest in facets of public policy and pressing social problems such as homelessness. In my view, the definition of “lobby” in the LRA does not make the distinction between matters of self-interest or private-interest and matters of public interest that Mr. Dobell proposes and, as I have already observed, the exclusion of local government authorities found in section 2(1)(d) of the LRA plainly does not apply to paid consultants such as Mr. Dobell.

[70] I am unable to agree that the LRA does not apply to intergovernmental discussions about public policy issues where the interests of the governments involved overlap or converge. The LRA does not distinguish between intergovernmental communications about matters that are of separate interests and those that are of overlapping interest to the governments concerned. What section 2(1)(d) does do is exclude the City, its elected officials and its employees from the scope of the legislation with regard to their communications with public office holders. However, this exclusion, by design, does not apply to paid consultants such as Mr. Dobell.

[71] Turning to the social housing contract in particular, I understand Mr. Dobell to say that his August to October 2006 meetings with public office holders were not lobbying because they were for the purpose of gathering or sharing information, or for understanding what existing government policies or programs exist, and that his later communications with public office holders were not lobbying because at that stage he was formulating his funding model, which was the substantive public policy work of the ‘content consultant’.

[72] Information gathering or sharing can be done without lobbying and it can also be done in conjunction with lobbying. No doubt consultants can be retained to do substantive public policy work that entails neither communicating with public office holders for a purpose in clause (a) of the definition of “lobby” nor arranging meetings with public office holders within the meaning of clause (b) of that definition. The question here is not whether these scenarios are possible—it is whether Mr. Dobell’s responsibilities and services provided under the social housing contract were a paid undertaking to lobby on behalf of the City within the meaning of the LRA.

[73] As I have already said, there was a contract for services relating to social housing that was drawn up and executed in October 2006 regarding services that had already started in August 2006. If the services in the contract, or the services as performed starting in August 2006, were lobbying then Mr. Dobell was required to file a return within 10 days of the start of the contract or the services performed under it. The City did not engage Mr. Dobell to simply gather or share information with the provincial government, about existing policies and programs or otherwise, or to do policy ‘content’ work in isolation from the provincial government. He was engaged to explore and influence, within the

provincial government, the formulation of substantive public policy and funding about a grave social problem, homelessness.

[74] As potentially grey as the distinction might be in some cases between the “development” of a provincial government policy or program (in clause (a)(iv) of the definition of “lobby”) and its “implementation” (in the exclusion in section 2(2)(b)(ii)), it would deny reality in my view to characterize the scope, level, substantive nature and fiscal requirements of the social housing policy work which Mr. Dobell undertook as being in relation to the “implementation” of “existing” provincial government policy with respect to City—and therefore excluded from the LRA by section 2(2)(b)(ii)—as opposed to being in relation to the “development” of provincial government policy (under clause (a)(iv) of the definition of “lobby”).

[75] Clause (a)(v) of the definition of “lobby” was also implicated, I think, by the acknowledged discussions with public office holders of the provincial government regarding funding for the cultural precinct and, later, homelessness.

[76] I repeat here my remarks above that the ‘attempt to influence’ requirement in clause (a) of the definition of “lobby” is a serious impediment to the clarity and enforceability of the LRA. I do not want to dilute the strength of my conviction about this shortcoming in the legislation and do not want to come to conclusions that are unfair to Mr. Dobell in light of the problematic nature of the ‘attempt to influence’ concept.

[77] The simple answer, however, is that—regardless of clause (a) of the definition of “lobby”—Mr. Dobell’s services to the City for both contracts undoubtedly included the arranging of meetings with public office holders, which, for consultant lobbyists only, is in and of itself a separate kind of lobbying under clause (b) of the LRA definition of “lobby”. His countdown for registration under the LRA began by April 5, 2006 for the cultural precinct contract and by August 16, 2006 for the social housing contract. His registration was not done within 10 days for either.

[78] The more searching answer is that—regardless of the cooperative involvement of the provincial government in these projects, the public and social worth of Mr. Dobell’s work for the City and the imprecision of the words ‘attempt to influence’ in clause (a) of the definition of “lobby”—his paid engagements by the City undeniably and entirely legitimately entailed communications with public office holders that were aimed at influencing the provincial government’s development of policy and awarding of financial benefits. These communications also required Mr. Dobell to register as a consultant lobbyist under the LRA.

## 7. Conclusion

[79] This review has led me to conclude that Mr. Dobell's contracts with the City were, among other things, paid undertakings to lobby on behalf of a client requiring him to register as a consultant lobbyist under the LRA and that his registration as a lobbyist in October 2006 was not done within 10 days after he entered into the undertakings, as was required by section 3(1)(a) of the LRA.

[80] It bears emphasis that Mr. Dobell's advisory roles for the City were not intended to be hidden and in fact were not hidden. For both contracts, the City agreed to provide Mr. Dobell with business cards designating him as a special advisor to the City or advisor to the City Manager and, from what I have been able to ascertain, his role as a City advisor and representative would have been in full and plain view in his meetings and discussions with stakeholders, interested agencies and public office holders. Mr. Dobell is a well-known and visible public figure and has been so for years. The fact that he registered late under the LRA may have lessened the public visibility of his role as advisor to the City in some measure, since that information was not available through the Registry of Lobbyists for a period of time, but his role as advisor to the City would appear to have been evident throughout to those with whom he met and communicated in that capacity.

[81] The purpose of the Lobbyists Registry is transparency. There was in my view no intention by the City or Mr. Dobell to hide the consulting contracts. Mr. Dobell has said that he decided to register, not because he believed he was a lobbyist, but to deal with any question of compliance with the LRA and to be completely open and transparent. For him the simple and straightforward way of answering the question was just to register. Transparency to him took precedence, as it should, to perceived technicalities around the requirements of the LRA. Registration was also, in my opinion, the correct and required course of action under the legislation.

[82] This review highlights that if a lobbyist registration system in British Columbia is going to function properly for those engaged in lobbyist activity, for public office holders and for the public then—whether it is a minimalist self-reporting public registry or a more comprehensive regulatory regime—the following is needed:

- language in the LRA that lends itself to associating legal lobbying activity with conduct such as influence peddling must be removed,
- perceptions of discredit around registration as a lobbyist must be dispelled,
- the requirement to register must not rest on complex or technical interpretations of excessively malleable statutory language,

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- there needs to be a widespread commitment to simple and unstigmatized disclosure, and
  - public expectations, and needs, for oversight of the lobbyist registration system must match the allocated compliance and enforcement powers and resources, and there must be candid acknowledgment that the current system is not geared or funded to undertake active—much less extensive—compliance and enforcement measures.

[83] Registration under the LRA should not be onerous, contentious or negative. Public office holders, clients of consultant lobbyists and employers of in-house lobbyists should welcome the disclosure that the Lobbyists Registry permits and they should be rigorous about the registration of lobbyists they encounter, employ or engage. One could argue that a positive regulatory climate of this kind would obviate the need for a vast compliance and enforcement machinery.

May 28, 2007

**ORIGINAL SIGNED BY**

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David Loukidelis  
Information and Privacy Commissioner  
& Registrar of Lobbyists

OIPC File No. L07-31466