



May 28, 2007
Victoria, BC

**RELEASE OF REPORT RESPECTING KEN DOBELL'S REGISTRATION
UNDER THE LOBBYISTS REGISTRATION ACT**

Information and Privacy Commissioner and Registrar of Lobbyists David Loukidelis today released the following public statement:

Concerns raised in the Legislative Assembly on April 18, 2007 about Ken Dobell's registration under the *Lobbyists Registration Act* prompted me to initiate my own independent review on April 19 into Mr. Dobell's registration under the *Lobbyists Registration Act*. I stated early on that the report of my review would be made public and that a copy of the report would be provided to the Ministry of Attorney General.

My report, entitled "Report on Registration of Ken Dobell Under the *Lobbyists Registration Act*", is being posted concurrently with release of this statement on my office's home page on the web, at www.oipc.bc.ca, under What's New.

For ease of reference, attached to this statement are two report extracts, the Report Overview and the Conclusion.

Because my report speaks for itself, I will not be giving interviews or commenting on this matter.

David Loukidelis
Information and Privacy Commissioner
& Registrar of Lobbyists

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L07-31466 Public Statement (28 May 07).doc

**EXTRACTS FROM REPORT ON REGISTRATION OF KEN DOBELL UNDER
THE LOBBYISTS REGISTRATION ACT**

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*¹ (“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.

[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 seemed to see the role of the lobbyist as not necessarily a positive one. He characterized his role 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

¹ S.B.C. 2001, c. 42.

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 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 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 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.

2. 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.

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[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,
- 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.

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