

## **RECENT RULING BY THE COURT OF APPEAL OF QUEBEC LOBBYING ACTIVITIES “A SIGNIFICANT PART”**

In a ruling rendered on April 28, the Court of Appeal tightened the interpretation of Notice No. 2005-07 of the Commissioner of Lobbying regarding the notion of the “significant part” for lobbying activities. This notion is present in the definition of enterprise lobbyist and organization lobbyist.

The following definitions apply:

- “enterprise lobbyist” means any person a significant part of whose job or function within a profit-seeking enterprise consists in lobbying on behalf of the enterprise;
- “organization lobbyist” means any person a significant part of whose job or function consists in lobbying on behalf of an association or other non-profit group.

According to the Court of Appeal, it is necessary to examine the part of the “job or function” of the person devoted to lobbying and determine whether this part is significant.

How do you determine if you’re lobbying for “a significant part” or not?

For the Commissioner of Lobbying, this ruling by the Court of Appeal tightens the use of certain qualitative criteria contained in Notice No. 2005-07.

The assessment of the “significant part” to determine whether a person qualifies as an enterprise lobbyist or an organization lobbyist must be based, in his opinion, and in light of this recent ruling, on an analysis of the regularity and intensity of a person’s lobbying activities. For example, the following can be considered:

- The relative importance of representations with respect to the level of activity of the person, enterprise or organization. For example, a person who usually does the representations to public institutions to obtain each of their contracts;
- The nature of the tasks of the person making the representations and the degree of his involvement (taking part in several meetings, doing follow-ups, asking questions and arguing or making requests to public office holders, etc.);
- Taking into account that there are representations to public institutions in the context of a project or a file and their nature. For example, a real estate project that requires a different orientation, the adoption of special planning program, or changes to the zoning by-law, permits, authorizations, etc.;
- The fact that the person is soliciting collaborators or other resources;
- The fact that the person is formally designated by its entity to make the representations. For example, a Vice-President, Government Relations or a Business Development Manager.

The above are factors that may be considered in determining whether an enterprise lobbyist or an organization lobbyist is lobbying for “a significant part.” When the assessment is positive, the person

must then consider themselves an enterprise or organization lobbyist and must publish their mandates to the lobbyists registry the moment they are lobbying or planning to do so.

Individuals who make representations to public institutions are best placed to determine whether or not they are lobbying for “a significant part.” When in doubt, or when a public office holder invites you to register, the Commissioner of Lobbying recommends that you register in the lobbyists registry.

For more information, please contact the Direction of Communications, Training and Client Relations of the Commissioner of Lobbying.