

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON GOVERNMENTAL OPERATIONS

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B E F O R E:  
GALE A. BREWER  
Chairperson

COUNCIL MEMBERS:  
Peter F. Vallone, Jr.

A P P E A R A N C E S (CONTINUED)

Herb Berman  
Chair  
New York City Lobbying Commission

Jim Caras  
Deputy General Counsel  
New York City Council

Michael McSweeney  
City Clerk and Clerk of the Council

Patrick Synmoie  
General Counsel  
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Jamie Lynn Chirichella  
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Laura Abel  
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Denise Wagner Furman  
Representative  
New York Advocacy Association

Rick Bell  
Architect  
Executive Director  
American Institute of Architects,  
New York Chapter

Gene Russianoff  
New York Public Interest Research Group

A P P E A R A N C E S (CONTINUED)

Alex Camarda  
Director of Public Policy and Advocacy  
Citizens Union

MALE VOICE: Quiet please.

CHAIRPERSON BREWER: Good morning, I'm Gale Brewer, Council Member for the West Side and Chair of Governmental Operations; glad to be here. We are meeting this morning to consider a bill and resolution number 1722, Resolution No. 1988 that would implement many of the recommendations of the Joint Mayoral-Council-appointed Lobbying Commission.

The Lobbying Commission was formed in 2011 and worked for two years to develop a detailed set of recommendations on ways to improve the City's Lobbying Laws. Their final report was issued earlier this year and I wanna thank them for their work, of course, but I also wanna say that it's extremely well-written; it's not one of those reports you have to read twice to understand it, so I wanna congratulate the authors; we'll do that later, but I wanna make sure that people understand how well-written it is. And I'm happy to be co-sponsoring with the Speaker and the Speaker has done a great deal of work; it's a real legacy item in terms of transparency; this is just one more example. The legislation implementing the recommendations is what this legislation is all about.

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2           Since the Council last amended the City's  
3 Lobbying Laws in 2006 there has been a great deal of  
4 progress; the number of lobbyists who have registered  
5 with the City Clerk has increased by approximately 50  
6 percent. The Clerk has, for the first time, levied  
7 penalties and fines against lobbyists who do not  
8 comply with the Lobbying Laws. The Clerk has audited  
9 over 100 lobbyists and the e-Lobbyist electronic  
10 filing system has been put into place and I also  
11 wanna thank the City Clerk; he and his staff are  
12 beloved, not just by people who get married, but also  
13 by people who are in touch with the office, including  
14 people working as lobbyists and people just generally  
15 in touch with that office.

16           To build on these successes, the  
17 legislation before us to day endeavors to: (1) Expand  
18 and clarify the definition of lobbying while  
19 increasing the dollar threshold so that smaller  
20 organizations will have their obligations reduced or  
21 eliminated; (2) Enhance education and outreach and  
22 expand enforcement efforts by the Clerk to bring  
23 unregistered lobbyists into the system; (3) Continue  
24 making technological upgrades so the system is  
25 transparent for the public and user-friendly for

2 lobbyists. The resolution calls on the state to  
3 accept city filing for lobbyists to only lobby in the  
4 City, which the Commission also recommended. I look  
5 forward to this morning's testimony on these  
6 important bills and I certainly wanna thank David  
7 Seitzer who's counsel to the Committee, Tim Matzoff  
8 [phonetic] who's the policy analyst and Will Colerove  
9 from my office.

10 So without further ado we'd like to call  
11 the first panel... [interpose, background comment] and  
12 that includes Herb Berman, who is Chair of the  
13 Lobbying Commission and I believe that he will be  
14 accompanied by a very special person who will  
15 introduce himself. [background comments]

16 [pause]

17 [background comment]

18 HERB BERMAN: Before I begin, Madame  
19 Chair, may I congratulate you on your election and I  
20 look forward to being your constituent, since I now  
21 live in Manhattan.

22 Good morning Madame Chair, again and  
23 member of the Committee on Governmental Operations.  
24 My name is Herb Berman -- and by the way, it's a  
25 pleasure being back here; I spent 27 years toiling in

1 the vineyards of the City Council -- and I have the  
2 honor of chairing the Joint Council-Mayoral New York  
3 City Lobbying Commission. I am please to testify on  
4 behalf of the Lobbying Commission in support of Intro  
5 No. 1172 and Reso No. 1988, a proposed local law and  
6 resolution that embodied the recommendations with a  
7 final report issued by our Commission earlier this  
8 year.

9  
10 As you indicated and as you know, in 2006  
11 the Council passed and the Mayor signed a package of  
12 legislation designed to strengthen the New York City  
13 laws regulating lobbying activities and to make  
14 government more transparent and accessible to New  
15 Yorkers and to reduce the perception of undo  
16 influence by lobbyists on government decision-making.

17 A provision in one of these pieces of  
18 legislation, specifically Local Law 15 for 2006,  
19 called for the formation of a Joint Mayoral-Council  
20 Commission to evaluate the implementation of the  
21 Lobbying Laws, recommend any changes to strengthen  
22 the administration and enforcement of the Lobbying  
23 Laws and specifically to evaluate whether or not the  
24 dollar threshold that triggers the obligation to file  
25 as a lobbyist should be increased. May I personally

2 comment that -- and I'll go into the numerous  
3 meetings that we had and the hearings that we had --  
4 there were so many organizations, particularly small,  
5 charitable, not-for-profit organizations who pleaded  
6 for relief from the imposition of the requisites of  
7 the Lobbying Law.

8 In March 2011 the Lobbying Commission  
9 convened; I was fortunate to chair this Commission  
10 comprised of very extraordinarily dedicated and able  
11 fellow commissioners. These commissioners were  
12 Margaret Morton, Lesley Horton, Elisa Velazquez and  
13 Jamila Ponton Bragg.

14 The Commission did an enormous amount of  
15 outreach and listening to those involved in lobbying;  
16 regulators also, lobbyists; good-government groups,  
17 and my fellow commissioners devoted an enormous  
18 amount of time and effort to try to come up with the  
19 best set of recommendations possible. I would also  
20 say that the staff that was provided by the Speaker  
21 and the Mayor were extraordinary; they did a  
22 tremendous amount of work, and we had numerous  
23 meetings outside of hearings with some people in  
24 order to give everybody an opportunity to be heard.  
25 Good morning, sir.



1                   We conducted six public meetings and  
2  
3                   hearings during which we heard extensively from those  
4                   responsible for enforcing the Lobbying Laws, those  
5                   subject to its requirements and good-government  
6                   groups who followed the City and State Lobbying Laws  
7                   closely. We then issued a preliminary report and  
8                   heard extensive public comments on the preliminary  
9                   report in another hearing. Finally, after a total of  
10                  seven public meetings and hearings and numerous staff  
11                  meetings with representatives of the for-profit  
12                  lobbyists and not-for-profit lobbyists and various  
13                  governmental advocates, many of which were also  
14                  attended by Commission members, the Commission issued  
15                  and approved the final report on March 13th, 2013,  
16                  which means that we conveyed the report to the  
17                  Council and to the Mayor.

18                  The Commission's recommendations fall  
19                  into four broad areas: (1) Expand and when necessary,  
20                  clarify the definition of lobbying activities to  
21                  cover additional types of advocacy activities and at  
22                  the same time increase the dollar threshold so that  
23                  the smaller organizations whose advocacy on their own  
24                  behalf is minimal, will no longer have to register;  
25                  (2) Enhance the education and outreach activities by

1 the Clerk so that those engaged in the activities  
2 covered by the expanded scope of the law and those  
3 currently operating outside of the system are aware  
4 of their filing obligations -- I might also indicate  
5 that the County Clerk was extraordinarily cooperative  
6 and also was very, very anxious to clarify the law so  
7 that they can do a proper job of administration and  
8 they're to be commended for what they did and how  
9 they did it. (3) Enhance enforcement efforts to  
10 target unregistered and non-compliant lobbying and  
11 bring registered lobbyists into the City's system and  
12 finally; (4) Require continuing technolog... tech... you  
13 see, I new I'd have trouble with the word...  
14 technological -- thank you -- changes and increase  
15 the availability of public information to facilitate  
16 the filing process and increase transparency  
17 surrounding lobbying activities in New York City.

19 I'll now try to hit the highlights of  
20 each one of these broad areas of changes.

21 The Commission recommended and the  
22 legislation contains provisions increasing the dollar  
23 threshold triggering the obligation to register as a  
24 lobbyist to \$5,000 from the current amount of \$2,000,  
25 which has been in effect since the 1980s.

2 In addition, the Commission would allow  
3 organizations who do not hire outside lobbyists and  
4 spend between \$5,000 and \$10,000 on lobbying to file  
5 only two yearly reports instead of the current six.

6 In addition, the legislation embodies the  
7 Commission's recommendations to expand the definition  
8 of lobbying activities to make clear that it is not  
9 just influencing decisions on formal proposals that  
10 constitute lobbying, but influencing decision before  
11 proposals are actually formalized so that an effort  
12 by an advocate to prevent or to stop the introduction  
13 of some legislation or resolution, etc. would  
14 constitute an act of lobbying as well.

15 Thus lobbying on a legislative proposal  
16 that is not yet introduced, lobbying to prevent rule  
17 changes from ever being considered and lobbying to  
18 keep something off or get something on the calendar  
19 of a board or commission would be expressly covered  
20 as a lobbying activity.

21 Finally, lobbying on Mayoral Executive  
22 Orders and on an Oversight Hearing and its scope  
23 would also be considered lobbying. We felt that that  
24 was an appropriate and intelligent interpretation of  
25 lobbying.

1  
2 A huge portion of the Commission's time  
3 was spent dealing with the applicability of the  
4 lobbying laws to architects and engineers. By the  
5 way, never in my entire tenure in government did I  
6 see so many architects and engineers excited by  
7 [laughter] an issue, and I don't necessarily blame  
8 them. It became clear to us that the current  
9 Lobbying Laws make no distinction between a law firm  
10 lobbyist and an in-house government relations  
11 professional or an architect or engineer trying to  
12 influence a City Planning Commission or ULURP  
13 decision. In fact, the City Clerk opinion from 1987  
14 says as much. However, we also realized that  
15 applying every provision of the law equally to  
16 architects and engineers would result in turning most  
17 of the work of an architectural firm with significant  
18 business before the City Planning into lobbying  
19 activities even if this work consists of preparing  
20 plans and blueprints only. So the Commission  
21 recommended and the proposed legislation contains  
22 several exceptions for architects and engineers.

23 For example, as follows: (1) design work  
24 and drafting of plans would be exempt from the  
25 definition of lobbying -- and appropriately so

1 because it's really a miniscule part of the process  
2 and is generally there for the purposes of  
3 accomplishing technical advice -- (2) appearance  
4 before community boards would not be considered  
5 lobbying if it tempts to influence the ultimate  
6 determination on which the community board is making  
7 its recommendation would not be lobbying, such as  
8 decisions of the Board of Standards and Appeals; (3)  
9 attempts to influence boards or commissions or other  
10 city officials on capital projects under the  
11 direction of a city agent where those attempts are  
12 made by agents of the city; and (4) certain land use  
13 actions viewed as minor in the context of the goals  
14 of the Lobbying Laws identified by the City Clerk by  
15 rule that will be guided by explicit standards and  
16 factors set forth in the law.

18 I wanna be clear that without these  
19 exceptions it is our opinion that architects and  
20 engineers would be treated like any other person  
21 engaged in lobbying in their work and dealings with  
22 city agencies and the Council.

23 The second category of our proposal is  
24 designed to enhance education and outreach by the  
25 Clerk on the expanded reach of the law and to

2 segments of the lobbying industry currently operating  
3 outside of the system. We recommended and the  
4 legislation includes... and may I also say that, to the  
5 credit of many lobbyists, they specifically asked for  
6 these types of changes. (1) A requirement for  
7 training every two years for all registered  
8 lobbyists, to be administered by the Clerk. In  
9 addition, we also recommended that the Clerk's  
10 Lobbying Bureau should have a designated full-time  
11 staff person responsible for conducting education and  
12 outreach not to just registered lobbyists, but in  
13 venues where there are likely to be people who may be  
14 subject to the requirements of the Lobbying Laws but  
15 not be registered. I believe that that is not  
16 something that we can mandate by legislation -- is  
17 that correct?

18 JIM CARAS: Yeah, uhm...

19 CHAIRPERSON BREWER: You have to identify  
20 yourself, sir... [interpose]

21 JIM CARAS: Jim Caras, Deputy General  
22 Counsel of the Council, but I'm sitting here as  
23 former director... or co-director if the Lobbying  
24 Commission and my co-director on the Mayor's side,  
25 Bill Heinzen, was unable to be here today because of

2 a family obligation. In a piece of legislation we  
3 can't mandate a budget appropriation, so the Mayor's  
4 office has committed to funding for a full-time  
5 person and hopefully that commitment will continue,  
6 so that is where we are on that. [interpose]

7 HERB BERMAN: We consider that a vital  
8 necessity and hence the recommendation. The third  
9 category of proposals are designed to enhance  
10 enforcement efforts for targeting unregistered and  
11 non-compliant lobbying and bring unregistered  
12 lobbyists into the City's registration system.

13 These proposals are and the legislation  
14 contains provisions to: (1) allow the Clerk to  
15 exercise limited discretion to waive or reduce late  
16 filing penalties but only when certain specifically  
17 enumerated factors are found to mitigate the  
18 imposition of the penalties. The importance of this  
19 recommendation is that at least it gives to the Clerk  
20 an element of discretion which it never had before  
21 and no matter what the consequences or the reason --  
22 if there is a delay in reporting or whatever -- then  
23 there was mandatory imposition of fines and it was  
24 just not fair in some instances. Also we recommend a  
25 one-time amnesty from late filing and civil penalties

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2 for new registrants under the Lobbying Laws who have  
3 never previously registered -- the function being to  
4 give people an opportunity, people who've been  
5 avoiding registering, to now come in and without fear  
6 of enormous penalties, comply with the law. And then  
7 a new protocol for the clerk to proactively identify  
8 individuals and organizations that should be  
9 registered as lobbyists; it's an interesting  
10 proposal; it's not necessarily, you know, the subject  
11 of this hearing, but it was an interesting thing to  
12 study.

13           The last area of our report contained  
14 recommendations to require technological changes to  
15 facilitate filing and increase the availability of  
16 information about lobbying activities in New York  
17 City. We recommend that the legislation contains the  
18 following proposals: (1) that more information from  
19 the e-Lobbyist System should be public available and  
20 in an easily searchable format which is close to what  
21 the State system does; (2) that the Lobbying Laws  
22 should be clarified to ensure that lobbyists are  
23 required to report both the person before whom the  
24 lobbyist is lobbying and the agency as well; (3) the  
25 Clerk should report more information about lobbying



1 activities and benchmarks on the operations of the  
2 Clerk's office, such as the number of phone calls and  
3 emails received by the Lobbying Bureau for  
4 assistance, the response time to these inquiries, the  
5 number of first-time filers; in addition, the Clerk's  
6 office should report on issues or legislation that  
7 were subject to the most intense lobbying, entities  
8 or officials most lobbied and other macro trends.  
9 Finally, a recommendation embodied in Resolution 1187  
10 would call on the State to accept the City filings  
11 for those lobbyists who file with the State solely by  
12 virtue of their lobbying activities directed at New  
13 York City officials.

14  
15 Again I would like to express my  
16 gratitude to you at having been selected to chair  
17 this Commission and to my fellow commissioners for  
18 their hard work and dedication to this undertaking.  
19 I urge the support of this legislation and the  
20 resolution in front of you today and again, I wanna  
21 thank the Speaker and the Mayor for having provided  
22 us with such outstanding staff that enabled us to do  
23 what we did and I thank you for the opportunity to  
24 testify.

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CHAIRPERSON BREWER: Thank you very much.  
We've been joined by Council Member Peter Vallone and I wanted to indicate that as Jim Caras stated, William Heinzen is on vacation or with his family, but he did some more testimony which will be submitted into the record, so thank you very much.

So first of all, thank you for very clear testimony, very similar to the quality of the report itself; as I indicated, it is very understandable of a very complicated topic.

I didn't go to all the hearings that you had; I went to some and I guess one of my question is, 'cause I come from the non-profit community, and you know that community very well, so how do you envision these revisions benefitting small organizations? I know there's a different threshold, but as somebody who knows, for instance in the human services world, etc., most of these in-house lobbyists it would be -- I guess I call them... citizen lobbyists would be another term -- so I'm just wondering how do you see this group of people complying, understanding, benefiting, etc., just the whole world of the non-profit?

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2           HERB BERMAN: Well first of all, many of  
3 them will no longer be required to file because of  
4 the change in the definition of what constitutes a  
5 lobbyist; is the financial threshold. You know, some  
6 local senior citizen center, which in the past may  
7 have been required to file for no really valid  
8 reason, now probably... you know, they'll have one of  
9 the members or one of their staff people who is  
10 responsible for filling out the reports and  
11 everything, they won't have to; that's one of the  
12 most important things. Second of all, particularly  
13 the small not-for-profits who have very little money  
14 available to begin with could be excused for making  
15 errors or failing to meet a time timeline, because  
16 the Clerk now has the discretion to be able to excuse  
17 penalties if they are in a position where they have  
18 to file. One of the most common forms of complaint  
19 that we received from the not-for-profits, and there  
20 were many, many of them, were the fact they were  
21 being fined and penalties being imposed because they  
22 didn't even know they had to file and you know, these  
23 are well-intended people, they are local senior  
24 citizen center or youth group or something like that  
25 and it really would've been a terrible waste of money

2 on their part to have to comply, so this alleviates  
3 that problem; it also creates the mandatory amnesty  
4 program. So there's a variety of different things  
5 that will help them and I think alleviate much of  
6 their problems.

7 I would also suggest that the Committee  
8 consider recreating a lobbying commission at some  
9 time in the future because this an ever-evolving area  
10 and they should have the ability to exercise review  
11 of the legislation where it becomes necessary.

12 CHAIRPERSON BREWER: Okay. Thank you.  
13 [background comment] The other question, I guess... I  
14 know you also heard, as you indicated, from the  
15 architects and engineers and you talked about them  
16 when you discussed the... gave your testimony; do you  
17 think that their concerns have been addressed with  
18 these changes and are there other aspects of what  
19 they do that you think need to be addressed? I mean  
20 as somebody who is on my community board and  
21 obviously go to community board meetings and sit in  
22 the City Planning and know what ULURP is, I see their  
23 role, it's very, very helpful; particularly I have to  
24 say at the community board level where there's not  
25 the kind of expertise that there is at the City

1  
2 Planning Commission; they often do give a back and  
3 forth and often now on the community boards there are  
4 architects and there are engineers, so there's a good  
5 dialogue going, and so my question would be; how... is  
6 that a gray line; is it an understandable line? I  
7 just wanna know a little bit more on that issue.

8 HERB BERMAN: Well part of the problem is  
9 that the architects and engineers came to us after we  
10 had finished our final hearing and raised the issue  
11 that we weren't necessarily aware of... am I right,  
12 Jim; they came at the end?

13 JIM CARAS: At the preliminary report  
14 stage.

15 HERB BERMAN: Right. So we had to open  
16 it up and try within a limited timeframe to  
17 understand the problem. I think that there is  
18 significant relief that they sought encompassed in  
19 the proposed legislation, because if in fact an  
20 architect or an engineer is retained for the purpose  
21 of simply doing a set of plans or some technical  
22 stuff and is not advocating the approval or non-  
23 approval before the City Planning Commission or a  
24 City Council agency, etc., then you know, they're  
25 relieved of the obligation of having to file. I do

2 believe that considering the fact that we were under  
3 a time constraint, and even though we had many  
4 meetings with them, that's an area that has to still  
5 be looked at and time will tell whether or not  
6 further change has to happen, but we shouldn't omit  
7 that as a possibility.

8 CHAIRPERSON BREWER: Okay. The issue of  
9 the e-Lobbyist -- and obviously we'll ask more of the  
10 City Clerk, but as somebody who has spent a lot of  
11 time looking at technology, it's sometimes good on  
12 paper and more challenging in reality. So did you  
13 get any discussion or feedback on the current system  
14 or the future system and what technologically it  
15 might look like? I think those of us running for  
16 office are quite familiar, you know, with some of  
17 the... doing business with the City platforms; with  
18 what the Campaign Finance Board has done and I'm just  
19 wondering if you think that the e-Lobbyist improves  
20 the transparency of efforts to lobby the Council, but  
21 more importantly, did you get any feedback on the  
22 e-Lobbyist or just the technology that the City Clerk  
23 has?

24 JIM CARAS: I think we did get quite a  
25 bit of feedback on that and I think people tended to

1  
2 agree that the City system took in more information  
3 and information in a more rational way, but was not  
4 as good as the State system in providing that  
5 information in a searchable way to the public and  
6 that's what we're trying to do in the proposals in  
7 the legislation... in the report and the legislation.  
8 We hope and we trust that it can be implemented,  
9 although, you know, a timetable in that  
10 implementation is not really up to us. But that is  
11 the goal, to have the information more readily  
12 available; more searchable so that people can look up  
13 what was the biggest issue lobbied on last year; who  
14 was the elected official most lobbied on last year;  
15 you know, ways in which we understand the State  
16 allows people to search, although we also understand  
17 that the State system has its problems with crashing  
18 a lot, but we're trying to mirror the State system  
19 without those problems.

20           HERB BERMAN: I would also say that the  
21 recommendation that an additional staff person be  
22 hired in order to be able to implement this  
23 disclosure, etc. would be a key factor, so hopefully  
24 the commitment to do that is carried out.

2 CHAIRPERSON BREWER: 'Kay. 'Cause this  
3 extra staff person has to do education and sounds  
4 like quite a few things, right; is that... was there a  
5 definition of what this staff person would be doing?

6 JIM CARAS: Primarily education outreach,  
7 but that is a function that I think the Clerk would  
8 say that their current lobbying staff is spending a  
9 significant portion of its time on, so that would  
10 free up the existing lobbying staff to work on other  
11 aspects of the Lobbying Law -- enforcement,  
12 technology, reporting, etc.

13 CHAIRPERSON BREWER: Okay. I know you  
14 mentioned that in the future, as one of your  
15 recommendations that, you know you couldn't cover in  
16 the bill and in the hearings, was that we have what I  
17 call an evaluation lobbying commission or something  
18 that does evaluation in the future. Are there other  
19 recommendations that perhaps are not covered here  
20 that you'd like to see take place in the future? I  
21 have to say, you know as somebody, again who's run, I  
22 think the no-gift policy, which is part of the past  
23 history of this Council is excellent and the  
24 curtailment of the amount that can be given by  
25 lobbyists and the unmatchable, that's all excellent,



2 so I'm just wondering if there are other suggestions  
3 down the road that we should be looking at.

4 HERB BERMAN: Well I... that's the reason  
5 why we strongly recommend that in some manner or form  
6 a future commission is created and they would then  
7 look upon what was necessary and what changes have  
8 occurred that might necessitate further change. So  
9 that would be in the future of the next commission,  
10 if in fact there is one.

11 CHAIRPERSON BREWER: And just help me  
12 again, 'cause I don't know the State's... not to know  
13 the whole State system, but were there a lot of  
14 discussions, not just on e-Lobbying, but in general  
15 about trying to comply with State and City?

16 JIM CARAS: There was a lot of discussion  
17 and because of the fact that certain aspects... I think  
18 the... especially some of the good-government groups,  
19 certain aspects of our system and the information we  
20 required they preferred to the State and again, then  
21 certain aspects of how the State publicize the  
22 information; that, you know, was preferred to our  
23 system, but because some of the... our definitions of  
24 lobbying are in some ways... and with the changes to  
25 the law will be broader than the State law; also the

2 State law, under municipal lobbying, it's unclear if  
3 they cover the extent of the land use decisions that  
4 our law covers, so because of that it's... we... the  
5 Commission I think made the decision that it was  
6 virtually impossible to combine... you know, to somehow  
7 combine the two systems. So... which is why we have  
8 the resolution in front of us, because since we  
9 believe our law will be more comprehensive, if it's  
10 not already, then the State should accept the City  
11 filings, just like they do in the case of financial  
12 disclosure; they accept our elected officials' and  
13 senior public officers' financial disclosure filings  
14 to satisfy the State financial disclosure  
15 requirement; that the same thing we would like to see  
16 done with the lobbying registration so that lobbyists  
17 don't have to file twice.

18 CHAIRPERSON BREWER: That's very helpful.  
19 Thank you both very much and I wanna again  
20 congratulate all the hard work; I think you had a  
21 great... no, you had a great commission and the hard  
22 work has been demonstrated today, so thank you both  
23 very much. [interpose]

24 JIM CARAS: Thank you.

25 HERB BERMAN: Are we dismissed?

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FEMALE VOICE: You are.

HERB BERMAN: Thank you. [crosstalk]

CHAIRPERSON BREWER: You are dismissed.

HERB BERMAN: [laughter]

CHAIRPERSON BREWER: The next panel is Michael McSweeney, the City Clerk, and I think he's bringing a couple of people with him, so why don't you introduce them when you come up.

[background comments]

CHAIRPERSON BREWER: Go ahead, sir; thank you very much for being here.

MICHAEL MCSWEENEY: Okay. My name is Michael McSweeney; I am the City Clerk and Clerk of the Council and today I am joined by my General Counsel, Patrick Synmoie, [background comment] and also by my Deputy General Counsel, Jamie Lynn Chirichella and they're gonna help me with answering any questions that you have and to make any comments that we have with our testimony.

I'd just also like to acknowledge the presence of my Deputy City Clerk, Damaris Acosta, Chief Investigator, Walter Carcione and Lobbyist Information Specialist, Felicia Cohen, who helps us a great deal with compiling information and doing the

2 research that our investigators use. We also are  
3 joined by two of our interns from Brooklyn Law  
4 School; they're law students that are here helping us  
5 and forgive me for not having your names.

6 So thank you very much, Madame  
7 Chairperson, members of the Committee and Committee  
8 staff; we are here to testify in favor of Intro 1722  
9 and the accompanying resolution to change the  
10 Lobbying Law. I'm gonna read my testimony; some of  
11 the things were already covered by Chairperson  
12 Berman, so I'll try to, you know, go through things,  
13 but stop me if I'm being repetitive, please.

14 In 2006 Mayor Bloomberg and the City  
15 Council worked together to enact groundbreaking  
16 legislation that reformed the City's Lobbying Law to  
17 make lobbying activities more transparent. Pursuant  
18 Local Law 15, a Lobbying Commission was appointed to  
19 evaluate the City Clerk's enforcement of the Lobbying  
20 Law and to recommend changes and improvements based  
21 upon the experience of the City Clerk and others  
22 involved with Lobbying Law enforcement. After  
23 several public hearings and testimony from lobbyists,  
24 not-for-profit organization, our State counterpart,  
25 the Joint Commission of Public Ethics, or JCOPE,

1  
2 good-government groups and other City agencies, the  
3 Lobbying Commission issued its final report on March  
4 13, 2013.

5 In its report, the Lobbying Commission  
6 approved of the City Clerk's performance in enforcing  
7 the Lobbying Law and made several recommendations to  
8 improve lobbying enforcement. These recommendations  
9 form the basis of this intro.

10 City governance of lobbying in New York  
11 dates back to 1972 when lobbyists were called  
12 municipal legislative advocates and were required to  
13 comply with the law if they earned \$25 per calendar  
14 year. Over the next 34 years the law has been  
15 amended several times; the most significant changes  
16 to the Lobbying Law occurred in 2006. Government  
17 groups favored those amendments to the Lobbying Law  
18 because they were concerned that the Lobbying Law did  
19 not do enough to increase transparency in government.  
20 There were also concerns about the effect of  
21 fundraising on decisions made by public officials.  
22 As a result, in 2006 the Council enacted Local Laws  
23 15, 16 and 17. Local Law 15 is administered by the  
24 City Clerk while Local Laws 16 and 17 are

1 administered by the Conflict of Interest Board and  
2 Campaign Finance Boards respectively.

3  
4 Local Law 15 increased the disclosure of  
5 lobbying activities and created more effective  
6 enforcement mechanisms, it also required lobbyists to  
7 file fundraising and political consulting reports.  
8 Most significantly, the Local Law increased penalties  
9 for violations by adding a penalty for delayed filing  
10 of reports. It empowered the City Clerk to conduct  
11 random audits and required that lobbyists' spouses or  
12 domestic partners and unemancipated children, under  
13 limited circumstances, be listed on statements of  
14 registration. It also required the City Clerk's  
15 investigative staff to be trained by the Department  
16 of Investigation; it increased civil penalties for  
17 knowing and willful violations and for late filings.  
18 Local Law 15 also directed the City Clerk to post an  
19 annual report on its website by March 1st of each  
20 year and mandated electronic lobbyist and client  
21 filings. As a result, the City Clerk in conjunction  
22 with DoITT created an electronic filing system known  
23 as the e-Lobbyist System.

24 Since then the City Clerk has held  
25 several trainings for lobbyists and clients,

1 conducted several investigations regarding unreported  
2 lobbying and held over 200 audits of filings. The  
3 e-Lobbyist System has been upgraded and enhanced over  
4 the years in an effort to create a user-friendly and  
5 efficient electronic filing system. In addition,  
6 there have been over 100 hearings at the Office of  
7 Administrative Trials and Hearings, known as OATH,  
8 the adjudicator of the City Lobby Law violations and  
9 the City Clerk has assessed over \$2 million in  
10 penalties. Lastly, the number of registered  
11 lobbyists has more than quadrupled and the number of  
12 clients has more than doubled since Local Law 15 took  
13 effect. In 2006 there were 246 lobbyist entities  
14 registered and 1,433 clients. In our 2012 Annual  
15 Report we reported that there were 1,083 lobbyists  
16 and 3,229 clients enrolled in the e-Lobbyist System.

18 The first set of proposed amendments to  
19 the Lobbying Law effectively broadened the  
20 definitions of lobbying and lobbying activities.  
21 Several changes in this section were necessitated by  
22 the failure of the current law to encompass many  
23 activities that ought to constitute reportable  
24 lobbying.

1  
2 One issue is the question of when does  
3 lobbying begin. The law currently states that any  
4 attempt to influence the passage or defeat of a local  
5 law by the Council constitutes lobbying; as a result,  
6 some lobbyists have suggested that because the local  
7 law does not come into being until it is passed by  
8 the Council under current law; lobbying does not  
9 begin until after its passage; this issue also  
10 existed at the State level. To resolve this issue,  
11 Section 1-c(c)(i) of the New York State Legislative  
12 Law clarified that lobbying includes the introduction  
13 of legislation and the intended introduction. The  
14 City's lobbying should likewise clarify this issue  
15 because most related lobbying activity may well take  
16 place prior to the passage of legislation.

17 The proposed changes to the definition of  
18 lobbying including: (1) both the Council and the  
19 Mayor, prior to the introduction of legislation;  
20 (2) the proposal of a rule by an agency; (3) the  
21 decision to hold a ratemaking proceeding; and (4) to  
22 influence the contents of the agenda in addition to  
23 any determination of a board or commission.  
24  
25



1  
2           These proposed amendments all address  
3 this crucial question; at what point does lobbying  
4 being.

5           The proposed changes provide clearer  
6 guidance as to when lobbying begins and consequently,  
7 when a lobbyist's reporting obligations start.

8           In addition, some specific types of  
9 lobbying activities that were altogether missing from  
10 the current lobbying law are now included. These  
11 additions include: (1) influencing any determination  
12 regarding the calendaring or scope of any Council  
13 Oversight Hearing; (2) influencing the issuance,  
14 repeal, modification or substance of a mayoral  
15 executive order; and (3) lobbying a City official or  
16 employee to take a position on State or Federal  
17 legislation.

18           In addition to proposed changes to the  
19 definition of lobbying activities, there are also  
20 proposed amendments which set forth exemptions to the  
21 definition of lobbying activities. The proposed  
22 amendments seek to add architects and engineers  
23 acting in certain capacities to the list of exempt  
24 activities. These exemptions focus on architects and  
25 engineers when performing in the normal course of

1 business; adjudicatory proceedings before a community  
2 board, regular design work and draft plans and  
3 presumably smaller projects, compared to the  
4 instances in which such professionals assume the role  
5 of influencing specific outcomes.  
6

7 The second set of proposed amendments is  
8 to the duties of the City Clerk; these proposed  
9 additions include requiring the City Clerk to: (1)  
10 include more regulatory information in its annual  
11 report; (2) increase public outreach and  
12 investigations; (3) establish a training program and  
13 contains an anti-corruption component; and (4)  
14 require the formation of another Lobbying Commission.

15 In recent years we have increased the  
16 amount and quality of the information included in our  
17 annual report. For example, we included the number  
18 of first-time filers, to subject matters lobbied and  
19 targets reported and lobbyists and clients that  
20 received the highest compensation. The proposed  
21 changes to the Lobbying Law codifies the reporting of  
22 these trends and adds to the reporting of the number  
23 and types of requests from the public for assistance,  
24 as well as the average response in closure resolution  
25 times of such requests in our annual report.

1                   The proposed amendments also require the  
2 City Clerk to increase public outreach and  
3 investigations. This amendment is aimed at  
4 increasing the reporting of lobbying activity and  
5 thus will further the goal of transparency. The  
6 amendments mandate that the City Clerk expand its  
7 outreach efforts by developing notices and  
8 advertisements in conjunction with City agencies and  
9 the Council in order to reach various organizations  
10 that do business with the City who may be unaware of  
11 the Lobbying Law requirements.  
12

13                   In addition, the amendments seek to  
14 codify protocols, some of which are already in place,  
15 to identify unreported lobbying. These protocols  
16 include reviewing: (1) State lobbying reports;  
17 (2) notices of appearances filed with various City  
18 agencies, including the Landmarks Preservation  
19 Commission and the City Planning Commission; and  
20 (3) reviewing the Doing Business Database.

21                   The proposed amendments also include the  
22 provision requiring an on-line training program for  
23 lobbyists that must include an anti-corruption  
24 component. Over the past year the City Clerk has  
25 greatly expanded its training programs; we have

1 conducted training for newly-enrolled lobbyists and  
2 clients to help them better understand their duties  
3 under the lobbying law. This course has been  
4 accredited by the New York State Continuing Legal  
5 Education Board and attorney attendees can receive  
6 1.5 CLE credits. The additional training will help  
7 increase awareness of and compliance with the law.  
8

9 The next group of proposed changes deals  
10 with amendments to a lobbyist and clients reporting  
11 requirements outlined in the law.

12 The first of such proposed amendments  
13 include the section that addresses the Statement of  
14 Registration requirements. The Statement of  
15 Registration is the initial lobbyist filing. Local  
16 Law 14 of 1986 increased the reporting threshold so  
17 that any person or organization that expended or  
18 incurred in excess of \$2,000 in combined reportable  
19 compensation and expenses in a calendar year was  
20 required to file a Statement of Registration. For  
21 the past 27 years, however, this reporting threshold  
22 has remained unchanged.

23 Given changes in the Cost of Living  
24 Index, inflation and current levels of reported  
25 lobbying compensation, the current reporting

1 threshold is outdated; increasing the threshold would  
2 have the added benefit of alleviating any reporting  
3 requirements on several smaller not-for-profits by  
4 exempting them from the Lobbying Law altogether.  
5

6 It should be noted that the New York  
7 Temporary State Commission on Lobbying, which is now  
8 known as JCOPE, increased its reporting threshold  
9 from \$2,000 to \$5,000 in 2005. Our reporting  
10 threshold is being increased to match the State's for  
11 the vast majority of filers.

12 The remaining amendments to Section 213  
13 codify ongoing City Clerk procedures, including the  
14 following amendments: 1. to provide that Statements  
15 of Registration must be filed by January 15, which  
16 acknowledges the traditional grace period for filing  
17 Statements of Registration; (2) requiring that both  
18 the lobbyist and the client enroll in the electronic  
19 filing system, which is a practical necessity of the  
20 e-Lobbyist System; (3) to require the reporting of  
21 both the person and agency or agencies lobbied, which  
22 clarifies the law as previously addressed by our  
23 office through an advisory opinion; and (4) to  
24 require a separate Statement of Registration for each  
25 client, which clearly sets forth a long-standing City

1  
2 Clerk policy that was an apparent omission in the  
3 law. The provision is identical to the provision in  
4 the New York State Legislative Law.

5           Lastly, the changes listed address the  
6 issue of filing amendment Statements of Registration.  
7 A Statement of Registration is an anticipatory filing  
8 in which the lobbyist details anticipated lobbying  
9 activity for the upcoming year. Therefore, lobbyists  
10 should not be required to amend this information  
11 every time a target or a lobbying activity changes,  
12 because the information will be accurately captured  
13 in the period reports that follow.

14           Given the periodic report lists the  
15 actual targets and lobbying activity, it is necessary  
16 and unduly burdensome to lobbyists to require an  
17 amendment each time such information changes.  
18 Amending this section removes the need for this  
19 redundant reporting.

20           The second set of amendments to the  
21 reporting requirements deal with the periodic report  
22 section. Pursuant to Local Law 15 of 2006, the City  
23 Clerk conformed the periodic reporting period to  
24 match those of JCOPE by amending the Rules of the  
25 City of New York. The proposed amendments seek to

1                   codify these changes in the Administrative Code. The  
2                   proposed amendments also provide that lobbyist-client  
3                   filers whose threshold is between \$5,000 and \$10,000  
4                   file only two periodic reports, the first and sixth  
5                   periodic reports instead of six periodic reports.  
6                   The cumulative threshold based on a lobbyist's annual  
7                   combined compensation and expenses that triggers the  
8                   filing of a Statement of Registration is mirrored in  
9                   the Lobbying Law section covering the filing of  
10                  periodic reports.  
11

12                   Currently, a periodic report is not  
13                  required if in the given period the lobbyist does not  
14                  earn or incur in excess of \$500 in combined  
15                  compensation and expenses. The proposed changes in  
16                  this periodic reporting threshold mirror the increase  
17                  of the annual threshold; as a result, the amendment  
18                  of this section increases such threshold from \$500 to  
19                  \$1,000 per period.

20                  The other proposed amendments to Section  
21                  216 include: (1) requiring both persons and agencies  
22                  lobbied; (2) requiring the reporting of expenses  
23                  reimbursed by the client in a given period;  
24                  (3) requiring an amended periodic report when  
25                  information in the report changes.

1  
2           Next, there are two minor amendments to  
3 Section 216.1 which address fundraising and political  
4 consulting reports. These amendments fix an omission  
5 in the current law by requiring the reporting of  
6 expenses incurred by filers engaged in these  
7 activities, as well as requiring filers to amend  
8 these reports when there is a change in information.  
9 The last section involves changes to the reporting  
10 requirements, the annual report section. The section  
11 is being changed to mirror proposed amendments made  
12 to other sections of the Lobbying Law with respect to  
13 lobbyists reporting requirements; these changes  
14 include: (1) raising the reporting threshold for the  
15 client to file its annual report to in excess of  
16 \$5,000 of combined reportable compensation and  
17 expenses reimbursed to its lobbyists; (2) raising the  
18 reporting threshold for a client whose lobbyist is an  
19 architect or engineer; and (3) requiring reporting  
20 the person and agencies before which the lobbyist has  
21 lobbied.

22           The next set of proposed amendments deal  
23 with the obligation of lobbyists. One major  
24 amendment to this section is requiring all filers to  
25 undergo training of the Lobbying Law and the



1 e-Lobbyist System. Making training mandatory rather  
2 than optional is essential to educate lobbyists and  
3 clients as to the proper method of filing reports and  
4 to the various filing issues they may face during the  
5 year. This will drastically lower many inquiries our  
6 office receives during the year regarding assistance  
7 with filing reports and will allow us to refocus  
8 these resources on other matters, such as  
9 investigations, audits and outreach.

11 Section 219(h) sets up a mandatory  
12 training for all first-time filers. The amendment  
13 provides that first-time filers must be registered  
14 for training within 15 days of the commencement of  
15 lobbying. In addition, all repeat filers must  
16 complete training biennially. Repeat filers must  
17 have at least one person complete this training;  
18 however, if a lobbyist lists more than five Lobbying  
19 employees on their Statement of Registration and have  
20 registered 30 or more clients, then the lobbyist must  
21 have at least two employees complete this training,  
22 one of which must be a lobbyist.

23 Section 221 addresses the creation of a  
24 computerized database of all the reported data,  
25 searchable by lobbyist name, client name, target and

1 subject matter. This will increase accessibility of  
2 information to the public, effectively increasing  
3 transparency, which is the primary goal of the  
4 Lobbying Law.  
5

6 The last set of proposed amendments, the  
7 penalty section, is the penalty section of the  
8 Lobbying Law, Section 223; it is being amended to  
9 clarify the daily late filing penalty.

10 In 2006, pursuant to Local Law 15, the  
11 City Clerk established rules for late filing  
12 penalties that complied with a State "schedule." The  
13 "schedule," with adopted by the City Clerk in its  
14 rules required the fine amounts of \$10 per day for  
15 first-time filers and \$25 per day for repeat filers;  
16 however, it was determined that the City Clerk's  
17 rules did not go far enough in adopting the specific  
18 State "schedule" that existed at that time. The  
19 proposed amendments of Sections 223(c)(i)(ii) will  
20 codify the fines without having the fines subject to  
21 any interpretation of their conformity to any  
22 "schedule" established by JCOPE or any other State  
23 entity.

24 In addition to amending the daily late  
25 filing penalty section, the proposed changes confer

1 very limited discretion upon the City Clerk to waiver  
2 or reduce late filing penalties under certain  
3 circumstances. The Rules of the City of New York  
4 currently provide that late filing penalties are  
5 automatic and not waivable or reducible for any  
6 reason; however, in very limited circumstances a  
7 waiver or reduction of the finds may be merited. The  
8 proposed amendments to Section 223(c)(ii) are the  
9 most effective way to confer such limited discretion  
10 upon the City Clerk by setting forth specific  
11 criteria the City Clerk will take into account when  
12 determining whether to waive or reduce the fine. The  
13 factors include: (1) how often the filer was late in  
14 the past; (2) the annual operating budget of the late  
15 filer; (3) whether the lobbyist lobbies on its own  
16 behalf; (4) how much activity and compensation was  
17 unreported; and (5) the significance of the  
18 impediments to timely filing.  
19

20 Conferring limited discretion upon the  
21 City Clerk will allow some restraint in levying fines  
22 while at the same time upholding the mandate to  
23 encourage timeliness of filings.

24 The last propose amendments to the  
25 Lobbying Law include adding a provision to the

1 penalty section to provide for an amnesty program.

2 This amendment will be indispensable to increasing  
3 the reporting of lobbying activities because an  
4 amnesty will encourage many entities currently  
5 engaged in unreported lobbying to comply with the  
6 Lobbying Law without fear of penalty.

7  
8 I would also add that we fully support  
9 the resolution providing that JCOPE accept filings  
10 pursuant to the City's Lobbying Law from lobbyists  
11 who are required to file with JCOPE solely due to  
12 their lobbying of New York City Officials; this would  
13 relieve filers from filing duplicate reports.

14 In conclusion, we fully support the  
15 adoption of the proposed amendments to the Lobbying  
16 Law contained in Intro 1722 and accompanying  
17 Resolution. The amendments will codify the  
18 recommendations of the Lobbying Commission and will  
19 improve the enforcement of the City's Lobbying Law.

20 CHAIRPERSON BREWER: Thank you very much,  
21 Mr. McSweeney and I just wanna say that you have lots  
22 of admirers, but one of them of course is in this  
23 area; lots of work that's been done that's greatly  
24 admired and I know that you have followed the  
25 Lobbying Commission's work very closely and I believe

2 you began implementing certain proposals voluntarily,  
3 even before the final report was issued and I think  
4 you've done things, such as additional reporting by  
5 lobbyists; mandated that, and looking at the State  
6 filings to determine if the State filers were  
7 lobbying in New York City without registering, so we  
8 wanna comment you on all of that. There's many  
9 things to commend you on, but those are two examples.

10 MICHAEL MCSWEENEY: Thank you.

11 CHAIRPERSON BREWER: So my question is; I  
12 think the public are probably most interested in;  
13 what are the challenges on implementing this proposed  
14 legislation? Obviously you've done a great job up to  
15 know; you've had input, but what are some of the  
16 challenges that you foresee in implementing all of  
17 this?

18 MICHAEL MCSWEENEY: I would say, you know  
19 the challenges won't be nearly as difficult as the  
20 challenges we first faced after the 2006 amendments;  
21 I mean there, the particularly great challenge was  
22 creating an electronic filing system out of nothing;  
23 I mean there never was an electronic filing system,  
24 so having that is a great deal.

1  
2 I mean I think that the biggest challenge  
3 will be really getting the word out to parties that  
4 are engaged in unreported lobbying. I mean we have a  
5 pretty good idea as to how to do that and you know,  
6 the person that's going to, you know be hopefully  
7 joining us, that will be empowered to do training and  
8 assisting us with getting the word out, you know will  
9 be primarily charged with that. But you know, that I  
10 would say is going to be the biggest challenge,  
11 because you can only do so much outreach; I mean we  
12 don't... if we had the budget to do, you know,  
13 television and radio commercials, you know, I think  
14 that way we could, you know, be really effective.  
15 But you know, we will work with City agencies to, you  
16 know try to get space on other City websites and also  
17 we gonna, you know go out to community boards and  
18 other community meetings where we can get the word  
19 out on the most grassroots level possible and you  
20 know hopefully let people know about, you know, what  
21 lobbying is and what, you know parties' obligations  
22 are under the Lobbying Law to report, if at all.

23 CHAIRPERSON BREWER: So if... presuming the  
24 Lobbying Law passes; then you would do some kind of  
25 leaflet or pamphlet, not to mention online web

2 information, as to what the law includes, 'cause...  
3 [crosstalk]

4 MICHAEL MCSWEENEY: That's the idea.

5 CHAIRPERSON BREWER: that's the kind of  
6 thing that the community board would certainly  
7 appreciate, I'm sure.

8 MICHAEL MCSWEENEY: Absolutely. The only  
9 other thing I would just add to that is the other  
10 challenge would be making sure that we have money in  
11 the budget for DoITT to continue its fixes and  
12 changes to the e-Lobbyist System; that's something  
13 that is indispensable. We have to thank DoITT for  
14 partnering with us on creating the filing system and  
15 they have made an incredible number of changes that  
16 has improved the functionality of the system and has  
17 really made things better, but that's always gonna be  
18 the biggest problem, because you know, DoITT will  
19 rely on funding to make that happen. So that I would  
20 say is the other major challenge that we're gonna  
21 face.

22 CHAIRPERSON BREWER: What's the timeline;  
23 I guess it depends on DoITT, but what's the timeline,  
24 from your perspective, needed, in order for DoITT to  
25 comply... in order for you to comply, because obviously

2 there will be quite a few changes that have to be  
3 made?

4 MICHAEL MCSWEENEY: I think that, you  
5 know, probably you're looking at least a year; I  
6 don't know if anyone would disagree with that; it  
7 would take time for DoITT to, you know, kind of make  
8 the proposed changes, test the changes in the system  
9 and get them out.

10 CHAIRPERSON BREWER: So how does that  
11 work and... and obviously have a State... how do you work  
12 with the State technologically; that's always a  
13 challenge, I find technology-wise in general? In  
14 other words, are you able to... is it a compatible  
15 system?

16 MICHAEL MCSWEENEY: I mean right now we  
17 don't have, you know, a system where we work, you  
18 know hand in hand with the State; I mean we have a  
19 good rapport with the State... [interpose]

20 CHAIRPERSON BREWER: Right.

21 MICHAEL MCSWEENEY: and you know, any  
22 time we've communicated with them, there's been no  
23 problem, but you know, right now it's basically --  
24 we're looking at each other's websites and we're  
25 looking at the same resources that are out there for



2 everybody. So we basically used the reports that the  
3 State has made available to their public and I'm sure  
4 the State has done the same thing with us.

5 CHAIRPERSON BREWER: So understandably,  
6 it could take a year to do the upgrades; then how do  
7 the... if the law goes into effect; how does the  
8 e-Lobbyist work or not work with the changes? In  
9 other words, you will have people who will or will  
10 not be filing 2000, 5000, all those different  
11 changes; how would that work?

12 MICHAEL MCSWEENEY: Well, I think that...  
13 hold on... [background comments]

14 JAMIE CHIRICHELLA: I mean I think it  
15 would mostly change... [crosstalk]

16 CHAIRPERSON BREWER: Just introduce  
17 yourself...

18 JAMIE CHIRICHELLA: I'm sorry, Jamie  
19 Chirichella at the City Clerk's office. It mostly  
20 will be code changes with e-Lobbyist, so I'm not  
21 really sure how that would work, but yeah, they would  
22 change the code to provide that filers that expend  
23 between... [interpose]

24 CHAIRPERSON BREWER: The... the...  
25

2 JAMIE CHIRICHELLA: \$5,000 and \$10,000  
3 would only be required to file two reports. So it's  
4 mostly code changes.

5 CHAIRPERSON BREWER: Okay.

6 PATRICK SYNMOIE: This is Patrick  
7 Synmoie; let me just generally add that I think the  
8 law provided for this -- specifically we know it's  
9 always a challenge getting DoITT funded; I mean for  
10 instance, one of the things that was addressed  
11 earlier is the fact that the one place where the  
12 State seems to outshine us is in terms of the way the  
13 public can find information and that's partly a  
14 function that we just didn't have the amount of  
15 resources to get that piece of it done. So that's  
16 definitely going to be a challenge, but I think the  
17 law specifically addresses this by saying that this  
18 will happen as soon as DoITT can attend to these  
19 matters.

20 CHAIRPERSON BREWER: Okay. The...

21 [interpose]

22 MICHAEL MCSWEENEY: So... so... and let me...  
23 I'd just like to add... [crosstalk]

24 CHAIRPERSON BREWER: Go ahead. Please,  
25 go ahead.

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MICHAEL MCSWEENEY: I think one year might be optimistic on our part; it might take longer to get everything done. Also, you know working with the State, I can't predict how, you know that's gonna, you know proceed, but I would say at the very least one year.

CHAIRPERSON BREWER: Okay. The other question too; when the lobbyist is educated, is it an online or in-person or is it a choice? In other words, you indicated that this is more of a training component, right; so is that an online training or in-person training?

MICHAEL MCSWEENEY: Go ahead.

JAMIE CHIRICHELLA: The current training that we have is in-person, so we reach out to first-time enrollees in the e-Lobbyist System and we send them an email; do you want to attend training, and they'll come in and we'll do an in-person -- they're small groups... [crosstalk]

JAMIE CHIRICHELLA: twice a month we've been doing them.

CHAIRPERSON BREWER: Okay. Okay, I just didn't know, 'cause there's always this back and

1  
2 forth with training now on many levels, online or  
3 in-person, so it's all in-person?

4 JAMIE CHIRICHELLA: Yes.

5 CHAIRPERSON BREWER: Okay. And that  
6 seems to work?

7 JAMIE CHIRICHELLA: Yes, uhm-hm.

8 CHAIRPERSON BREWER: And how long is that  
9 training, an hour; two hours?

10 JAMIE CHIRICHELLA: It's two hours.

11 CHAIRPERSON BREWER: Two hours. Okay.

12 JAMIE CHIRICHELLA: Uhm-hm.

13 CHAIRPERSON BREWER: And is there an  
14 updated or is it once you're trained you are deemed  
15 to be effectively trained? In other words, you don't  
16 come back for further training? [crosstalk]

17 JAMIE CHIRICHELLA: No. No... no,  
18 currently we don't have that program in place, but if  
19 anyone ever has a question, they'll always call us  
20 and we'll help them, walk them through... [interpose]

21 CHAIRPERSON BREWER: Okay.

22 JAMIE CHIRICHELLA: a filing, if they  
23 need.

24 CHAIRPERSON BREWER: Okay.

2 JAMIE CHIRICHELLA: So we educate them on  
3 the Lobbying Law and we also go through e-Lobbyist  
4 and we do filings with them, so it has two parts.

5 CHAIRPERSON BREWER: Okay. When... again,  
6 back to DoITT and e-Lobbyist; you may not know; we  
7 passed an Open Data bill; it's my bill, so I have  
8 great personal interest in this bill, so now every  
9 City agency has to put onto NYC.gov/data, a portal,  
10 their databases. So I'm just wondering if you're  
11 aware of that and if you will be complying.

12 MICHAEL MCSWEENEY: We will make every  
13 effort to comply, by the way... [interpose]

14 CHAIRPERSON BREWER: Thank you very much.  
15 The other... and it's been... the Mayor's office of  
16 Operations apparently has been pushing to get  
17 agencies to comply, because it gives people one place  
18 to get information; you will see it when you go  
19 there.

20 The other question I have is; when you  
21 are a non-profit; that's a group of people whom I  
22 have a lot of respect for, and how would they either  
23 compile -- maybe they've done this in the past -- how  
24 much... as a citizen lobbyist, how do they figure out  
25 or how do you help them figure out what they're

2 spending, whether they should comply or not? 'Cause  
3 these are groups, you know, some of whom may or may  
4 not know that they're supposed to be complying, so  
5 how do you help them figure out whether or not they  
6 should be complying? I think if you're a for-profit  
7 lobbyist, my guess is you'll quickly, hopefully  
8 comply and you understand that this is a... but the  
9 citizen lobbyists, as I call them, may have more...  
10 less of an understanding.

11 JAMIE CHIRICHELLA: What we tell them to  
12 do is at the beginning of the year or at the end of  
13 the previous year look at what they anticipate doing  
14 in the upcoming year and basically what they would do  
15 is they would look at the people who would be  
16 lobbying -- okay; if they figure they're gonna be  
17 lobbying -- the people who are gonna be lobbying and  
18 they would have to pro-rate the portion of that  
19 person's salary... it's very... I mean we tell people  
20 it's an educated guess... [interpose]

21 CHAIRPERSON BREWER: Right.

22 JAMIE CHIRICHELLA: to do the best they  
23 can, to look at the people who are lobbying, break  
24 down their salary into the hours and you know, with a  
25 \$2,000 threshold, it's very low... [interpose]

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CHAIRPERSON BREWER: Right.

JAMIE CHIRICHELLA: so the likelihood... it was very likely that they would surpass the threshold and be required to register. But now, with the \$5,000 -- you know, it's really an educated guess... [interpose]

CHAIRPERSON BREWER: 'Kay.

JAMIE CHIRICHELLA: based on what they're gonna be doing; what they think they're gonna be doing in the upcoming year, but certainly -- and we tell people to do that at the beginning of the year - - if they don't feel at the beginning of the year they're gonna be required to register, then during the year, once they exceed, then they file; they have 15 days... [interpose]

CHAIRPERSON BREWER: Okay. So that's a good example of a heavy duty education process...

JAMIE CHIRICHELLA: Yeah. Uhm-hm.

CHAIRPERSON BREWER: to understand that.

JAMIE CHIRICHELLA: Yeah. Yes.

CHAIRPERSON BREWER: I think with a new City Council and new Mayor, everybody's gonna be filing; I'm just saying, 'cause they have no idea who

2 anybody is and they're all concerned. So this is  
3 really a good time to do the education.

4 PATRICK SYNMOIE: I just wanted to add  
5 that with the increase in the threshold, a lot of  
6 these groups who had limited resources will  
7 effectively be outside of the Lobbying Law...

8 CHAIRPERSON BREWER: Okay.

9 PATRICK SYNMOIE: so the not-for-profits  
10 that... we won't have that many -- there'll be even  
11 more sophisticated not-for-profits, like the American  
12 Cancer Society and so on, who do have staff and  
13 resources to comply.

14 CHAIRPERSON BREWER: Okay. Do you have  
15 some sense when this education outreach staff member  
16 might be hired; are you still negotiating with the  
17 Mayor's office? I mean obviously the bill has to  
18 pass and there has to be, you know, different steps  
19 taken, but do you have any sense of that?

20 MICHAEL MCSWEENEY: OMB has expressed  
21 that we will be funded for the training component.

22 CHAIRPERSON BREWER: Okay. The final  
23 question I have is -- unless there any others --  
24 those non-profits who I think had -- you know, owed a  
25 lot of money in the past, they still have to pay;



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this is not a grandfather situation or how have we been able to work out that, if at all? There were some non-profits that were... stated they didn't know and you know; they were quite concerned.

PATRICK SYNMOIE: Well we've been fairly good about people who have difficulty paying, in that we've set up payment plans, which are probably, I believe, are interest-free, so we do get them to comply. But you're right, there's nothing that addresses -- I mean if they owe the fine, they do have to pay.

CHAIRPERSON BREWER: Okay. Alright.

[background comment]

CHAIRPERSON BREWER: I wanna thank you very much; do you have any other statements you wanna make? Anything else that you wanna add? I see some questions there. No? Okay.

MICHAEL MCSWEENEY: No, I... Madame Chairperson, I think we're great; thank you very much. [interpose]

CHAIRPERSON BREWER: Okay, but thank you very much for all of your work on this issue, certainly it's a work in progress and it... but it

2 looks like you have [background comments] done a  
3 great job, so thank you so much.

4 MICHAEL MCSWEENEY: Thank you.

5 CHAIRPERSON BREWER: The next panel is  
6 Denise Furman, Laura Able, Michelle Jackson, and Rick  
7 Bell. Whomever would like to begin.

8 [background comment, laughter]

9 LAURA ABEL: Hi, good morning, my name is  
10 Laura Abel; I'm an attorney with Lawyers Alliance for  
11 New York; we're the leading provider of business and  
12 transactional legal services to non-profits that  
13 serve low-income neighborhoods in New York City and  
14 for the most part, the smaller non-profits that we've  
15 been talking about this morning.

16 Lawyers Alliance strongly supports the  
17 bill and resolution. Today the Lobbying Law  
18 penalizes and chills advocacy by small non-profits  
19 and my particular concern here is the non-profits  
20 that use their own staff to do just a little advocacy  
21 from time to time, the citizen lobbyists -- I'm gonna  
22 use that phrase from now on, [laughter] it's  
23 wonderful. They don't have lawyers or outside  
24 lobbyists to help them understand intricate lobbying  
25 rules and the result is that they either stay silent

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2 and so the Council and the agencies don't get to hear  
3 from them, or they speak out and then end up paying  
4 thousands of dollars in fees for unintentionally  
5 violating the law.

6           The bill and resolution will improve the  
7 situation for these groups by raising the filing  
8 threshold to \$5,000, by allowing the Clerk to waive  
9 late fees when appropriate, by providing a one-time  
10 amnesty for first-time filers and by calling on the  
11 State to eliminate duplicate reporting. These are  
12 all important steps and I strongly urge you to enact  
13 them, but they don't go far enough.

14           First, the filing threshold should be  
15 raised to \$10,000 for groups that lobby only for  
16 themselves; the Commission on Public Integrity at the  
17 State level and the Lobbying Commission at the City  
18 level have both said that \$10,000 would be the  
19 appropriate figure. The bill in fact sets the  
20 threshold at \$10,000 for architects and engineers,  
21 even those who are paid by large real estate  
22 developers. If \$10,000 is appropriate for them, it's  
23 certainly appropriate for small non-profits who don't  
24 have dedicated lobbying staff and who don't in fact

1  
2 spend any money on lobbying beyond their own  
3 employees, no money changes hands with those groups.

4           The bill's six-month amnesty for first-  
5 time filers is also a wonderful gesture, but it will  
6 not ultimately serve the goal of allowing first-time  
7 filers to come into the system. We often meet  
8 groups, my colleagues and I, that don't know that  
9 what they're doing is lobbying and that they need to  
10 start filing. We have the sorry job of telling them  
11 that they already owe hundreds or thousands of  
12 dollars in late fees; many groups can't afford this  
13 and they simply decide not to file that year and take  
14 the risk that they won't get caught. A one-time  
15 amnesty won't fix this problem, because organizations  
16 that are formed or begin lobbying after their amnesty  
17 period is over will have no benefit and this is a  
18 rapidly growing sector -- nationally the non-profit  
19 sector grew by 42 percent in the past year, so we're  
20 gonna have a lot of new non-profits every year; we're  
21 gonna face this problem again.

22           The only solution to this is to allow  
23 first-time filers to seek amnesty whenever they learn  
24 of their obligation to file. You can still keep in  
25 place penalties for groups that don't come forward

1 voluntarily and that will provide plenty of incentive  
2 for groups to come into the system as soon as they  
3 learn of their obligation, so that they don't incur  
4 fees.  
5

6 The bill should also do more to eliminate  
7 duplicate filing. Right now a group that lobbies  
8 only in New York City may have to file as many as 14  
9 reports about that activity every year, half to JCOPE  
10 and half to the Lobbying Bureau. As a result, groups  
11 spend twice as much time as they need to filing and  
12 there's twice as much of a chance that they're going  
13 to make an innocent mistake and be penalized by one  
14 or the other.

15 The resolution asks the State Legislature  
16 to allow JCOPE to accept City filings and that's  
17 great, that should happen, but State Law changes  
18 aren't necessary; the bill should combat the problem  
19 from the other side too, by trying to eliminate the  
20 need for the Lobbying Bureau to require reports from  
21 organizations already reporting to JCOPE. Now I  
22 realize that there are administrative challenges that  
23 need to be overcome; the Lobbying Bureau and the City  
24 Lobbying Law properly require reporting about some  
25 items that JCOPE doesn't require to be reported, but

2 I use the State system myself when I register and I  
3 don't see any obstacle to over-reporting with the  
4 State, they don't penalize you for reporting on  
5 things that they don't define as lobbying; that  
6 simply goes into their system. So organizations that  
7 wanted to file all of their City lobbying with the  
8 State I believe could do that.

9 The second obstacle is that it appears  
10 that JCOPE's computers, although they take  
11 information in, don't compile it in the way that the  
12 City needs to track all of the information that the  
13 City needs to gather, but that's something that the  
14 City Clerk and JCOPE should try to be working out,  
15 that doesn't require a State Law change; I understand  
16 it's hard for JCOPE to change its computer systems as  
17 it is for the City, but that doesn't require a State  
18 Law change.

19 So in short, the Lobbying Bureau, in  
20 addition to the resolution, should be required to  
21 engage in ongoing efforts to eliminate duplicate  
22 reporting and to report back to the Council  
23 periodically on the progress that it's making in this  
24 effort.

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Thank you for your hard work on this issue and I'd be happy to answer questions.

CHAIRPERSON BREWER: Thank you. Next.

MICHELLE JACKSON: Good morning, my name is Michelle Jackson and I'm the General Counsel for the Human Services Council of New York, we're an umbrella organization of non-profit human service providers in New York. I want to thank the Council Member and the Committee for providing me with the opportunity to testify today; I also wanna take this opportunity to thank the Lobbying Commission for their work on this issue; we testified before the Commission on numerous occasions and HSC's very happy to see that a number of our recommendations made it into the final report, as well as the legislation before you today.

A few things that we're particularly supportive of, is raising the threshold to \$5,000; I think this will be very helpful to a number of small non-profit organizations who don't have the resources to comply effectively and it takes a lot of manpower for them to comply with the City lobbying requirements each year and so raising the threshold

2 will help a lot of those organizations get out of the  
3 system for the de minimis amount of lobbying they do.

4 We second Lawyers Alliance comments about  
5 raising the threshold to \$10,000; there's some  
6 precedent for that; JCOPE, when speaking before the  
7 Lobbying Commission previously had said that at the  
8 State level at least, if they raise the threshold to  
9 \$10,000 they would still capture 98 percent of  
10 lobbying dollars spent each year, while allowing a  
11 number of organizations out of the system, so what  
12 we're really trying to capture is lobbying dollars  
13 spent; by raising the threshold to \$10,000 I think  
14 we'd see a similar number at the City; I don't have  
15 those numbers, but allowing a lot of organizations  
16 out of the system while capturing the groups and  
17 dollars that are being spend on lobbying, so we would  
18 encourage raising the threshold to \$10,000.

19 Next, we're supportive of giving the City  
20 Clerk discretion in applying penalties; this has been  
21 a huge issue for non-profits who again are usually  
22 their own lobbyists and do their own filings in-  
23 house; if someone's out sick; if someone's on  
24 maternity leave; if someone's just getting started in  
25 the system, they can accrue a significant amount of



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penalties and non-profits don't have a bottom line in which to shift money around; there's just sometimes no... literally no place for that money to come from to pay those penalties.

One factor that we would like added to the legislation is if the groups are first-time filers, a lot of mistakes are made, understandably in the first year of registration, while people realize what kind of periodic reports are needed when and how to... you know, who's gonna be in charge of it and all of that, so one factor to add to the list of what can be considered when waiving penalties would be if they're kind of in their first year, if this is their first year of registering.

We're also supportive of the six-month amnesty period, as well as the outreach by the City Clerk's office; think a lot of outreach and education is still needed, particularly in the non-profit sector, for people to understand what the requirements of the Lobbying Law are and what constitutes lobbying; a lot of groups don't think what they're doing is lobbying, and I think the six-month amnesty period is helpful to allow people to enter the system, but because of the amount of

1 education outreach needed, I think that there should  
2 be a continuing amnesty period so any group that  
3 proactively comes forward regardless of when they do  
4 so should be allowed to come into the system without  
5 penalty so that as groups find out about the Lobbying  
6 Law or realize that they've met the threshold they  
7 can come in without having to worry about penalties,  
8 and that also frees the City Clerk's office to go  
9 after people who are not entering the system and to  
10 do education outreach instead of worrying about  
11 groups who are entering the system and looking back  
12 to assess penalties.

14 And finally, we support the resolution to  
15 the State, to have them accept City filings; again,  
16 this would be a great help to a number of non-profit  
17 organizations in New York City who really do file at  
18 the State level solely on behalf of their City  
19 lobbying activities. But again, I don't think that  
20 goes far enough; my dream is the one system, right;  
21 everyone reports into one system with the State,  
22 eliminate the City or the State filings and I know  
23 it's overly optimistic, but I say it every time  
24 anyway [laughter] that it would be nice... so we would  
25 suggest having in the legislation that the City

1 Clerk's office reports to the City Council every year  
2 on their efforts to work with the State to, even  
3 though... you know, if it's administrative changes, if  
4 it's changes to one or both lobbying systems; if it  
5 needs to be a law change, then so be it; we're here  
6 today for a law change, it happens, so to get to  
7 ideally one day a one lobbying system across the  
8 State.  
9

10 So thank you for providing me this  
11 opportunity to testify and I'm happy to answer  
12 questions.

13 CHAIRPERSON BREWER: [background comment]  
14 Next. Thank you, next.

15 DENISE WAGNER FURMAN: Good morning, my  
16 name is Denis Wagner-Furman and I'm actually here  
17 this morning speaking on behalf of the New York  
18 Advocacy Association. On behalf of the Advocacy  
19 Association I wanna thank you for this opportunity to  
20 testify and for holding this hearing and thank the  
21 New York City Lobbying Commission and its staff for  
22 its thoughtful approach throughout the process of  
23 amending New York City's Lobbying Act.

24 We're pleased that many of the  
25 recommendations that we've made to the Commission

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during this process were included in its preliminary and final reports; however, not all of the issues we raised were addressed; therefore we bring out concerns to the Committee in an effort to have them addressed in the final version of the legislation that gets voted on by the entire Council.

The issues include, number one, applying the lobbying threshold to each client rather than to each lobbyist. While we applaud the Commission and the Council for raising the amount of the lobbying threshold, we respectfully suggest that the threshold amount be applied to the client rather than to the lobbyist. Under the current rules, once a lobbyist exceeds a threshold amount he or she must register all of his or her clients, even the below the threshold and the many pro bono clients. The practical effect of this rule is that it creates a class of clients, those who generate less than the threshold amount in annual compensation whose decision and obligation to register with the City is dependant upon which lobbyist they hire. Applying a lobbying threshold to the client rather than the lobbyist would resolve the issue.

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2           Second, with respect to the reporting  
3 trigger, the New York Advocacy Association maintains  
4 that the Council should replace the reasonably  
5 anticipate standard with the requirement that all  
6 lobbyists should register within 10 days of the  
7 commencement of lobbying activity. Under the current  
8 reasonably anticipate standard, lobbyists  
9 occasionally encounter the situation where they  
10 register a client because they anticipate lobbying in  
11 the future, but ultimately never perform any lobbying  
12 activities. In such an instance, both the lobbyist  
13 and the client are subject to unnecessary filings.

14           Three, clients who only have one lobbyist  
15 should not have to file a client annual report; these  
16 reports disclose no new information and serve no  
17 public purpose, additionally, clients often have  
18 difficulty completing these reports and the burden  
19 falls on their lobbyist to ensure that they are filed  
20 correctly and accurately. The New York Advocacy  
21 Association is concerned that the factors included in  
22 this introduction for the City Clerk to take into  
23 consideration when assessing late fees or penalties  
24 apply more to clients than to lobbyists and lobbying  
25 firms. The City Clerk should have discretion in the

1 event that a lobbyist submits a late filing due to  
2 special or extenuating circumstances, including  
3 bonafide clerical errors. It's unclear as to whether  
4 the fifth factor included in the bill, the  
5 significance of the impediments to timely filing  
6 faced by the lobbyist or client sufficiently covers  
7 such situations. The New York Advocacy Association  
8 further submits to the Commission that there should  
9 be no late fee or penalty in the event that a party  
10 self-reports an erroneous filing. This policy would  
11 provide all filers the incentive to register and  
12 complete filing and to adjust incorrect filings and  
13 would further the goal of complete and accurate  
14 disclosure.

15  
16 Fifth, the filing fees should be  
17 consistent for all clients. Currently the Clerk  
18 charges \$150 for the first client registered and \$50  
19 for each additional client. The system serves no  
20 public purpose and puts lobbyists in the awkward  
21 position of having to choose which one of their  
22 clients must pay the larger filing fee.

23 The New York Advocacy Association, number  
24 six, would like to see the City institute an early  
25 termination option so that lobbyists and clients can

1 terminate their relationship and their reporting  
2 requirements at any point. Under the current system,  
3 even after a client-lobbyist relationship is  
4 terminated, the lobbyist must submit a year-end  
5 report to the Clerk. Even more burdensome, the  
6 terminated client must submit a client annual report  
7 or sign an under-threshold letter at the end of the  
8 year. The New York Advocacy Association recommends  
9 that both parties be able to submit all remaining  
10 paperwork at the time of the termination.  
11

12 Number seven, and lastly, while we are  
13 encouraged by the language contained in the  
14 introduction asking the State to accept the City  
15 lobbying filings, we believe the resolution can be  
16 strengthened by calling for the removal of the  
17 current double filing requirement and reduce the  
18 paperwork burden faced by all lobbyists and clients.

19 The New York Advocacy Association asks  
20 the Council to amend the resolution to include  
21 language asking that the State require JCOPE to see  
22 the municipal lobbying disclosure function to  
23 municipalities like New York City that have  
24 comprehensive lobbying reporting requirements in  
25 their local Lobbying Law.

1  
2           The New York Advocacy Association would  
3 again like to express its gratitude to the Committee  
4 and its staff for the hard work that you've put into  
5 this very important initiative. We would also like  
6 to thank City Clerk Michael McSweeney and his staff;  
7 making the administration of the Lobbying Law run  
8 more smoothly. Additionally we would like to thank  
9 Bill Heinzen from the Office of the Mayor and Jim  
10 Caras from the City Council staff for their  
11 thoughtful comments during this process. As always,  
12 we're available to meet with the Committee or its  
13 staff to discuss any suggestions.

14           I'd like to just offer one comment that's  
15 not in here. I do a tremendous amount of lobbying  
16 filings for many clients; I have never worked with a  
17 group more responsive, more intelligent, more kind  
18 and more accurate than the City Clerk's office.

19           CHAIRPERSON BREWER: That's very nice; I  
20 think the City Clerk himself sets a very high  
21 standard; he's a rock star, [laughter, background  
22 comment] particularly on other matters, but this one  
23 in... I just wanna say, all of your suggestions are  
24 great, but if you think the State of New York is  
25



2 gonna cede to the City of New York, [laughter] you're  
3 kidding. Thank you.

4 [background comment, laughter]

5 RICK BELL: Good morning Chairperson  
6 Brewer and members of the Committee on Government  
7 Operations; it's hard to follow three such eloquent  
8 people who I presume are all lawyers [laughter]; I'm  
9 just an architect and [laughter] my name is Rick  
10 Bell; I'm the Executive Director as well of the  
11 American Institute of Architect's New York Chapter  
12 and I am a registered lobbyist, card-carrying  
13 [laughter] lobbyist in New York City and New York  
14 State. I'm here to offer testimony, of course about  
15 the regulation of lobbying and first, like the others  
16 on the panel, I'd like to thank the Lobbying  
17 Commission and staff for working diligently with all  
18 stakeholders to issue a final report which makes  
19 recommendations that address many of our concerns.  
20 We're glad to see those items reflected in the  
21 legislation before the Committee today.

22 Just as an aside, the AIA was founded  
23 just a few blocks from here on Lower Broadway back in  
24 1857 and the AIA New York Chapter, which I head, is  
25 the largest AIA component in the country, with

1 approximately 5,000 architects in small, medium-sized  
2 and large firms. Our chapter is dedicated to three  
3 goals -- design excellence, public outreach and  
4 professional development. The chapter sponsors  
5 programs, initiatives, competitions and exhibitions,  
6 many of which are at the Center for Architecture on  
7 LaGuardia Place -- Council Member, which you've  
8 visited many times, supported by City Council -- we  
9 explore topics of interest to architects, allied  
10 professionals and the general public. We advocate on  
11 behalf of the architectural profession on issues  
12 relating to the built environment, professional  
13 regulation, education, resiliency and energy  
14 efficiency and as I said, we're a registered lobbyist  
15 organization in both the State and the City level.

17 You know, why are architects here; we  
18 plan and design and oversee the construction of  
19 buildings and in order to practice our trade we are  
20 required to obtain professional degrees from  
21 accredited architecture schools, but also to be  
22 licensed by the State of New York and subsequently to  
23 fulfill continuing education requirements.  
24 Architects take great pride in our designs and we're  
25 trained to protect the integrity of the profession,

1  
2 comply with all applicable laws and codes that affect  
3 buildings and we're contractually obligated to ensure  
4 that every element of the building has been properly  
5 designed; bad actors in the profession are sanctioned  
6 or deprived of the right to practice by the New York  
7 State Office of the Professions.

8           A significant aspect of the design  
9 process is the creation of visual materials, such as  
10 models, site plans, blueprints and other drawings  
11 that are required by agencies, such as the Department  
12 of Buildings, during the normal permitting process;  
13 they are also required and used by developers and  
14 owners to explain the project to the community, to  
15 elected officials and others in government.

16           Intro 1722 confirms the fact that  
17 although architects present to the public and  
18 government officials, much of our work is not  
19 lobbying in that we're already under significant  
20 regulatory oversight from the State; from the  
21 Licensing Board in particular. Moreover, it takes  
22 into account the significant economic impact;  
23 relieves part of the burden that a far more far-  
24 reaching law would have had on small firms in  
25 particular, by removing some of the reporting

1 requirements for items designated by the City Clerk  
2 as minor projects covered by the law and thank you,  
3 City Clerk, Michael McSweeney for clarifying that a  
4 little bit earlier; I note in Page 5, you know, the  
5 rules about minor importance and the City Clerk's  
6 ruling on presumably smaller projects, as you said,  
7 are subject to interpretation.  
8

9 So we commend the sponsors of the intro,  
10 as it provides greater transparency regarding those  
11 who are attempting to influence government decisions  
12 and we particularly support the legislation on  
13 several key points which I think are worth  
14 mentioning; they include that architects retained by  
15 a government agency are not considered lobbyists,  
16 that minor projects, as we were saying, are defined  
17 on certain criteria, including the size of the firm  
18 engaged are exempted from the Lobbying Law, that  
19 presentation before a community board, stirring an  
20 adjudicatory process -- a hard word to say -- for  
21 example, with BSA and OPC, are not considered  
22 lobbying, and that design work and drafting of plans  
23 created by architects pursuant to our State-issued  
24 professional licenses and work done by junior staff  
25 is not considered lobbying and lastly, that the

1 threshold for lobbying registration is raised to  
2 \$10,000, as time spent for architects and engineers  
3 and architecture and engineering firms -- I might  
4 add, out of the script, that maybe landscape  
5 architects should be considered as architects in that  
6 vein, since we're similarly regulated.  
7

8 So we respectfully, suggest that the  
9 legislation does not go quite far enough to recognize  
10 that all architects presenting to public commissions  
11 and regulatory agencies, based on professional  
12 license and training, should be exempted from some of  
13 the other provisions of the Lobbying Law and it was  
14 gratifying to hear from Council Member Berman say  
15 that time will tell and that further change may need  
16 to happen.

17 It is our position that architects are  
18 providing a public service of clarification, whether  
19 in a larger firm or small; whether for a complex  
20 project or a simple one. Today's legislation goes a  
21 very long way to show that it is not -- to paraphrase  
22 a certain speech the other night -- that it is not  
23 our skyscrapers and buildings that define New York,  
24 but our people working together to create resilience  
25 and sustainable communities. That coming together

1 requires honest and transparent sharing of  
2 information; architects communicate a shared vision  
3 for the future. In our estimation, this legislation  
4 will partially impede the open sharing of ideas to  
5 the detriment of the overall process; it is a concern  
6 to AIA in New York that architects in some instances  
7 will choose not to participate in the process and  
8 might not participate say in community board hearings  
9 for fear of having to report on paperwork, required  
10 attendant to it. I guess that would leave the  
11 process of presentation to others and if that's land  
12 use lawyers and real estate lawyers, presentations  
13 would be more eloquent, no doubt, but maybe not as  
14 much give and take on some of the design parameters.

15  
16 So I'd like to thank you, once again, for  
17 the opportunity to appear today to provide this  
18 testimony and similarly off script I would say, in  
19 picking up on some of the earlier comments, we'd like  
20 to offer the Center for Architecture as a venue for  
21 the kind of training that would reach out to people  
22 who need to by this law become registered as  
23 lobbyists and might not know that; there are many  
24 architects who need further information on the  
25 subject and our venue brings many of those folks

2 together, and again, to echo former Council Member  
3 Berman, you know if further change requires a  
4 reconvening of a different commission, we'd be very  
5 gratified to help with that process a little bit  
6 earlier than we were able to this time.

7 CHAIRPERSON BREWER: Thank you all very  
8 much. Just in terms of the architects, I think... I  
9 mean I certainly am the only... I'm not the only, but I  
10 love going to community board meetings; I might be  
11 the only person who loves going to community board  
12 meetings, but I hope that because the legislation  
13 includes the higher dollar threshold of \$10,000 that...  
14 you know, that would help, I would think in terms of  
15 making sure that if there is just one or two small  
16 matters from foreign agency or a community board,  
17 that you know that wouldn't hinder, 'cause obviously  
18 the larger firms are quite familiar, I'm assuming,  
19 but sometimes it's a one-op person and it's not  
20 something that they're familiar with, so do you not  
21 think that that threshold will help or at least will  
22 not deter people from participating?

23 RICK BELL: Yes, the threshold of \$10,000  
24 is much better and we were very gratified to see that  
25 change made, when it had started at \$5,000; Jay Bond,

2 who's the policy director of AIA New York **in the...**  
3 [crosstalk]

4 CHAIRPERSON BREWER: We love Jay Bond.

5 RICK BELL: [laughter] and has some  
6 experience in this building, and I just tried to do  
7 the math before coming here, just to see what that  
8 would actually mean, based on current salary rates,  
9 even for partners, and it works... it works. But there  
10 still may be people who do a lot of public work and  
11 do, if not relish going to community boards the same  
12 degree that you do, do find it a necessary part of  
13 their job to advance the capability of building  
14 project and they may push against that limit at some  
15 point.

16 CHAIRPERSON BREWER: Okay. Landscape  
17 architects, we... I know many and they are phenomenal,  
18 so describe how they would not be covered under your  
19 estimation? I know... [interpose]

20 RICK BELL: Well...

21 CHAIRPERSON BREWER: they have a  
22 different...

23 RICK BELL: you know it... it... it actually  
24 didn't occur to me until... [crosstalk]

25 CHAIRPERSON BREWER: licensing.



2 RICK BELL: we were sitting down here  
3 today, but landscape architects are regulated by the  
4 State of New York, by the Office of Professions,  
5 similar to architects, but are legally defined by the  
6 State as a profession... [interpose]

7 CHAIRPERSON BREWER: Right.

8 RICK BELL: but there are architects who  
9 do landscape design and there are landscape  
10 architects who work together collaboratively with  
11 architects on building design and with engineers as  
12 well. Since there is separate regulation, I just  
13 was... not being a lawyer... thought that it could be  
14 construed that they were not subject to the same  
15 thresholds and other clarifications that we as  
16 architects are and without any consultation to the  
17 American Society of Landscape Architects, New York  
18 Metro Chapter, they're not here, I would just think  
19 if I were them I would say well, you know, how are we  
20 different; it's really the same thing... [interpose]

21 CHAIRPERSON BREWER: We'll look at that.  
22 Thank you.

23 RICK BELL: especially at the community  
24 board hearings.

2 CHAIRPERSON BREWER: I wanted to just go  
3 back to the non-profit community. So, did you  
4 testify about the \$10,000 threshold issue at the  
5 hearings?

6 MICHELLE JACKSON: Yeah.

7 CHAIRPERSON BREWER: And you did not... you  
8 were not successful in your testimony?

9 MICHELLE JACKSON: No. [laughter]

10 CHAIRPERSON BREWER: Okay. Okay.

11 MICHELLE JACKSON: No. We appreciate  
12 raising the threshold to match the State and  
13 previously the State, JCOPE, had suggested that they  
14 were looking to raise their threshold to \$10,000,  
15 which is how we know about the 98 percent, and so I  
16 think that now is the opportunity; we don't know if  
17 and when, you know, a new lobbying commission will  
18 form, if there'll be, you know subsequent changes to  
19 the law to try to get the threshold raised to  
20 something that really will... is I think reasonable and  
21 I will get a lot of non-profits, as well as just  
22 other small filers out of the system.

23 CHAIRPERSON BREWER: Okay. The issue of  
24 amnesty that you brought up; I mean I think that's  
25 hard to... you know, you never know when it begins;

2 when it ends, in the legislation, if it's broader,  
3 how would you envision that working?

4 MICHELLE JACKSON: I think ideally, just  
5 any group that came forward to... and registered as a  
6 lobbyist, that right now, when groups do that there's  
7 a look-back as to why they were entering the system  
8 now as opposed to when the law came into being and a  
9 lot of groups either... it's because they came to  
10 trainings by HSC or Lawyers Alliance or they've heard  
11 of something or sometimes they have increased their  
12 lobbying and it requires a lot of... [interpose]

13 CHAIRPERSON BREWER: They're all gonna be  
14 lobbying the City Council and the Mayor... [crosstalk]

15 MICHELLE JACKSON: Exactly. [laughter]

16 CHAIRPERSON BREWER: I'm happy to see  
17 this...

18 MICHELLE JACKSON: and every year we... you  
19 know, HSC does a training and it's not just for our  
20 members, it's for other non-profit groups and every  
21 year we have a lot of organizations who are really  
22 unclear and... [interpose]

23 CHAIRPERSON BREWER: Came out of a rock.

24 MICHELLE JACKSON: Yeah and... or they've  
25 been doing something always and they don't consider

2 it lobbying; I've had groups say, well we just do a  
3 legislative breakfast -- that's probably lobbying;  
4 maybe it's not; sometimes it is -- and so it  
5 requires... [crosstalk]

6 CHAIRPERSON BREWER: Depends how much the  
7 eggs cost.

8 MICHELLE JACKSON: Exactly... [laughter]  
9 and what they say there and sometimes they meet with  
10 City Council Members and they're really not asking  
11 for anything and so it's not lobbying; that really is  
12 a meet and greet and sometimes it turns into  
13 something and so it takes a lot of education and  
14 outreach and when they proactively go to the City  
15 Clerk's office to have them have to look back and  
16 prove that that legislative breakfast didn't put them  
17 over the threshold it's difficult and so instead of  
18 discouraging groups from registering, we should be  
19 welcoming them into the system and really spending  
20 other time and resources going after people who  
21 should be in the system. So a continuing amnesty  
22 period I think would be fine.

23 CHAIRPERSON BREWER: Okay. You wanna add  
24 anything?

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COMMITTEE ON GOVERNMENTAL OPERATIONS

LAURA ABEL: I would just add on the \$10,000 threshold; there was a statement in the Lobbying Commission's report that in fact the \$10,000 threshold might be more appropriate, but they didn't want to introduce a difference between the City... [interpose]

CHAIRPERSON BREWER: From the City and the State.

LAURA ABEL: The State Commission, JCOPE, has said that \$10,000 would be a more appropriate threshold, so I would just urge the Council to take the lead here and let the State come into compliance. [interpose]

CHAIRPERSON BREWER: Okay. Okay. The issue of State and City platforms, as I call them, I think that's a two-year; I mean I heard the discussion from the City Clerk... one-year, two-year... it's so hard to do that; I don't know where the legacy systems are, you know, I spent 10 years on the Technology Committee as the chair; I spent... you know, I don't know if COBOL is hovering somewhere, [laughter] there was one COBOL guy left somewhere in the City; I use to know them all; I use to actually go with them to their legacy systems; I know exactly

2 where they are; I don't, there must be... if he... if he  
3 or she dies, I don't know what's gonna happen.  
4 [laughter] So that's always a problem, is that  
5 platform problems; I don't know how it gets solved, I  
6 don't... you know, I'm' just saying, until that gets  
7 solved, I think we're still gonna be filing a lot of  
8 duplicates.

9 My other question is; if there was a new  
10 commission at some point, you've mentioned some of  
11 the issues that could come up, but are there other  
12 topics that you might not have come up... any other  
13 topics that you think might be addressed in a future  
14 lobbying commission?

15 LAURA ABEL: I think it would always be  
16 appropriate to revisit the filing threshold, you  
17 know... [crosstalk]

18 CHAIRPERSON BREWER: Okay. Okay.

19 LAURA ABEL: far as inflation and..

20 CHAIRPERSON BREWER: Okay. Right.

21 LAURA ABEL: it should be...

22 MICHELLE JACKSON: Yeah. And I think  
23 what we... one thing that we did include in... I included  
24 in my testimony is the volunteer board member issue;  
25 I think making clear who needs to populate the

1  
2 employee store and the e-Lobbyist system and who's a  
3 registered lobbyist, because they get paid versus our  
4 volunteers; think that's an issue that came up at the  
5 end of the Commission and something we'd like to  
6 evaluate more.

7 CHAIRPERSON BREWER: Okay. Thank you all  
8 very much for your wonderful work... [interpose]

9 MICHELLE JACKSON: Thank you.

10 CHAIRPERSON BREWER: look forward to  
11 continuing. The next panel is Gene Russianoff from  
12 NYPIRG and Alex Camarda from Citizens Union and Gene  
13 will go first, 'cause I know he has a commitment.  
14 Gene always go first in my book, just so you know.

15 GENE RUSSIANOFF: That's a good rule; I  
16 think you should always stick to it. [background  
17 comment] So I'm Gene Russianoff with the New York  
18 Public Interest Research Group; we've been  
19 participating in this process since 2011 and I have  
20 to say it's been a model process; I really  
21 congratulate Chairman Berman and Bill Heinzen of the  
22 Mayor's staff and Jim Caras of the Council; they  
23 really... they reached out, they listened to our  
24 suggestions, they had good arguments, both pro and  
25 con and all commission meetings should be like this,

1 but some are; some aren't. In my testimony I'm gonna  
2 just focus on three of my points; I accidentally  
3 transposed the number of the bill, so it's not a  
4 sneaky attempt to get out from taking a position on  
5 it.  
6

7 So Chairman Berman brought this up and I  
8 had thought it was in the bill, but I'm told it's  
9 not; there really should be a provision that there be  
10 a commission in three to four years to review what's  
11 happened and it's why we're here now, because there  
12 was such a provision in the original law and I think  
13 it makes a great deal of sense to take a look at  
14 this; time changes and this deserves periodic study.  
15 So that's point one.

16 If you go to point six, this is a little  
17 bit in the weeds, but the Commission recommended,  
18 "focusing the Bureau's resources on those  
19 organizations who are not registered but whose  
20 dealings with City government may subject them to the  
21 Lobbying Law's requirements."

22 We recommended that... there's something on  
23 the State level, Section 166 of the Executive Law,  
24 that purportedly requires people to register at all  
25 State hearings and they use that database to check



1  
2 against their lobbyist registrations. The Commission  
3 staff believes that this provision covers many  
4 activities that do not constitute lobbying and not  
5 kept uniformly; instead, the Commission preliminary  
6 report says the same goal can be achieved by  
7 authorizing the Clerk to develop a protocol it can  
8 use to periodically check sources of information.  
9 And the protocol is listed in brief just below and it  
10 involves looking at things like the Doing Business  
11 Database and Notices of Appearance before the City  
12 Planning Commission.

13           You know, we're healthily skeptical that  
14 this will reach out to people who should be  
15 registered lobbying but aren't and we'll have to wait  
16 to see the effectiveness of this approach; hence, you  
17 know, having a commission come back in a couple years  
18 is important.

19           And then there's an issue, point eight,  
20 that the Commission staff, you know, convinced me was  
21 sort of not germane; it was more a campaign finance  
22 issue than it was a lobbyist registration issue, but  
23 you know I think when we look at the... you know, the  
24 Campaign Finance Board is going to do its yearly  
25 review of how the election went and you know I think

2 one serious problem is that, while it's great that  
3 the lobbyists reduce the amount of money they can  
4 give and it's great that their contributions are not  
5 matchable; the way they pedal their influence is by  
6 bundling up big numbers from people whose  
7 contributions are matching, so their influence is  
8 magnified by the public's dollars.

9 Anyway, Department of Investigation  
10 shared the view that it was a problem and we should  
11 be exploring this area, so maybe it'll come up during  
12 the Campaign Finance Board's hearings in their  
13 process.

14 And those are the points that I would  
15 stress. Turn it over to my colleague.

16 CHAIRPERSON BREWER: Before Alex speaks,  
17 just thanks to David, but Section 6 of the Law... on  
18 Page 21 of ours, does indicate between 36 and 48  
19 months after the date of the law that is amended... in  
20 other words, this law... [interpose]

21 GENE RUSSIANOFF: It's great... [interpose]

22 CHAIRPERSON BREWER: blah, blah, blah.

23 GENE RUSSIANOFF: they kept switching  
24 different versions I think so.

2 CHAIRPERSON BREWER: Right, so it's  
3 there.

4 GENE RUSSIANOFF: Well then I heartedly  
5 support it... [interpose]

6 CHAIRPERSON BREWER: Thank you.

7 GENE RUSSIANOFF: and I think it uh...  
8 [laughter]

9 CHAIRPERSON BREWER: Go ahead, Alex.

10 ALEX CAMARDA: Good afternoon Chair  
11 Brewer; members of the Gov. Ops. Committee, my name  
12 is Alex Camarda; I'm the Director of Public Policy  
13 and Advocacy at Citizens Union. I'm gonna summarize  
14 most of my testimony, since others have gone through  
15 some of the elements that are mentioned.

16 I would echo Gene's sentiments that this  
17 was a very collaborative process, from the point that  
18 the Commission was convened in 2011 through the  
19 drafting of the bill and I really wanna commend the  
20 Commission members for that as well as the Council  
21 staff and the Commission staff, and I should point  
22 out, as others have mentioned, that this process  
23 really began eight years ago and I think the Council  
24 and the Mayor's office and the City Clerk can take  
25 great pride in that in the last eight years the

1 lobbying laws in the City have been dramatically  
2 improved. I mean we went from a system where much of  
3 the activity that was going on was really not known  
4 and the Clerk's office was really an archive for the  
5 filings, to one in which at least some of the  
6 activity is known through the database they currently  
7 have, measures have been taken to limit the influence  
8 of lobbyists on campaigns and I think we can take  
9 great pride in the accomplishments that have been  
10 made and this bill really flows from those earlier  
11 achievements.  
12

13 As far as the bill itself goes, there are  
14 many elements that we support and that we lobbied for  
15 ourselves; during the Commission's work we put out 14  
16 different recommendations for inclusion in their  
17 final report, seven of those made it in there, five  
18 of which are in this bill and I wanna talk about a  
19 few of those and why they're important.

20 You heard from others who testified about  
21 the expansion and the definition of lobbying; some of  
22 this is clarifying existing law, but the fact that  
23 the period before a bill is introduced, before a rule  
24 is drafted, before a regulation is made, is now going  
25 to be included; is critically important, because as

1 anyone who lobbies government, that's an area that  
2 involves a lot of activity and activity just doesn't  
3 occur after a bill has been introduced.

4 I think it's also important that  
5 executive orders are included of the Mayor, lobbying  
6 by the Mayor's office and others on Federal issues is  
7 now included and those are all things that expand the  
8 covered activity by lobbyists and will now be, at  
9 least reported, if not immediately known.

10 In addition to the expansion and the  
11 definition, I think it's very important that the  
12 reporting will now include not only the agency or  
13 entity lobbied, but also the person lobbied. This is  
14 something that the State does not require, it's  
15 optional at the State level; it's now required at the  
16 City level and the Clerk's office has facilitated  
17 this through the database they currently have for  
18 reporting, but I think it's very important that we'll  
19 now know not only who is lobbied, but what's lobbied  
20 on the associated numbers, whether it be for bills or  
21 executive orders, and the date that the lobbying  
22 occurred.

23 So those are elements of the bill that we  
24 support; we also support elements that are in the  
25

1 final report that are not necessarily in the bill and  
2 we would encourage that they be added in some form.  
3 One of those is the position that you heard about  
4 earlier in the Clerk's office that's envisioned that  
5 would be a position for education and outreach; I  
6 understand there's an agreement now, at least among  
7 the decision makers that that would be part of the  
8 budget, but we are obviously going through a change  
9 in the administration and so I think that oughta be  
10 codified in some way, maybe in the legislative intent  
11 of the bill that this is something that should be  
12 provided for the Clerk's office; we would hate to see  
13 that fall off the table in future budgets.

14 Likewise, the report suggested that a  
15 mechanism be put in place for the Clerk's office to  
16 communicate to the Doing Business Database that MOCS  
17 has; that if an extension is sought for a lobbying  
18 registration, that the folks running the MOCS  
19 database are informed of this so that contributions  
20 aren't made in excess of the \$400 limit for  
21 lobbyists. So I think that that [background comment]  
22 should be mandated in the bill that that kind of  
23 reporting occurs; I don't know if it can be done  
24 electronically or otherwise, but it should happen and  
25

1 that was a suggestion of the Commission in their  
2 report. [background comment] We support the  
3 mandatory training for lobbyists; currently, as you  
4 heard, the training is optional and I think that will  
5 go a long way towards improving the quality of  
6 reports and also compliance and making it easier for  
7 a lobbyist to understand the law and when they need  
8 to report their activity.

9  
10 A few concerns about the bill, some of  
11 which I mentioned, were including elements in the  
12 Commission's final report. My greatest concern is  
13 with the database... [interpose]

14 CHAIRPERSON BREWER: Me too.

15 ALEX CAMARDA: As was mentioned, the  
16 lobbying activity that is... the expansion in the  
17 lobbying activity that has to be reported we think is  
18 critically important that's now going to be in the  
19 law if this bill passes, but it really... if there  
20 isn't a database to make this known to the public, it  
21 doesn't really have much effect other than putting  
22 more requirements on those who report.

23 Currently the database only... the current  
24 database the Clerk's office has now, it only shows,  
25 if you look it up, for example, for Citizens Union,

2 it only shows our name, phone number, address, who  
3 lobbies for the organization; the topics that we put  
4 on the registration form, which, as you heard  
5 earlier, that doesn't cover everything we lobby on,  
6 it doesn't include the bills and subjects that are  
7 reported in the bi-monthly reports.

8 In addition, it doesn't include the  
9 people that are lobbied on particular items; you  
10 don't know, you know, if we've lobbied on particular  
11 bills or executive orders, none of that's known in  
12 the database as is now. So I understand DoITT's  
13 working on it; that has been the case for two years,  
14 since this first came about; from what I've heard it  
15 hasn't been the priority that it should be, so we  
16 would encourage that in the legislation a deadline be  
17 put on when this database is due; you heard the Clerk  
18 say that, you know, a year was an optimistic  
19 estimate; we suggested 18 months, but I think the  
20 most important thing is that there is a deadline,  
21 because currently under the legislation, both groups  
22 have to certify that it can be done and that would  
23 leave the door open to it not being done.

24 I would also suggest, and this is  
25 something that we recommended to JCOPE and to my



1 amazement, they actually did it, they put online the  
2 underlying Excel spreadsheet for their database and  
3 so it's similar to the open data portal in the sense  
4 that they put it on their website; you can download  
5 it, you can look at it in different ways and people  
6 outside of the JCOPE office can actually analyze  
7 lobbying activity. So I would say in the interim,  
8 between now and the database being created; the  
9 Clerks' office does have this underlying database of  
10 information that they can access; I think that should  
11 be put online in a format that can be used by the  
12 public.  
13

14 Lastly, I'd like to talk about the  
15 resolution; we support the intent of streamlining  
16 reporting; I think it's unfortunate that we have  
17 these two systems that don't overlap and require more  
18 reporting for lobbyists and clients, but the reality  
19 is, and I think it's a bit contrary to what you heard  
20 today, is that the two laws are different and in  
21 significant ways. You heard from Jim Caras that land  
22 uses reported at the City level, land use lobbying  
23 activity, it's not reported at the State level or  
24 it's questionable on the Municipal Law.  
25

2 In addition, because of the ethics laws  
3 that were passed in 2011 at the State level, the  
4 lobbyists at the State level exceeding a certain  
5 threshold now have to report their donations, which  
6 is not done at the City level; they also have to  
7 report their reportable business relationships, which  
8 means essentially, relationships with elected  
9 officials and other people in State Government.  
10 Those are very significant differences. They are  
11 filed on separate forms, so maybe there is something  
12 that can be worked out in terms of a resolution where  
13 the State would accept the City forms and the City  
14 filers would only have to report sources of incomes..  
15 [interpose]

16 CHAIRPERSON BREWER: But the State  
17 doesn't have a CFB, where a lot of that material is  
18 available, some of it, in terms of contributions;  
19 there's no State CFB.

20 ALEX CAMARDA: There's the... right,  
21 there's the Board of Elections..

22 CHAIRPERSON BREWER: Right.

23 ALEX CAMARDA: but the Board of Elections  
24 only requires disclosure... [crosstalk]

25 CHAIRPERSON BREWER: Yeah; it's not even...

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ALEX CAMARDA: of express advocacy communications and not issue-based advocacy... [interpose]

CHAIRPERSON BREWER: Oh. Oh.

ALEX CAMARDA: So I think it's still not fully captured.

CHAIRPERSON BREWER: Okay.

ALEX CAMARDA: The other issue, and I have had conversations with JCOPE about this; they tell me they can't electronically take a City filing and put it into their database and even manually it would be difficult because the fields don't exactly line up; I mentioned the fact, for example, that they don't collect the people that were lobbied, and sometimes reports that are filed, the people are reported; other times it's an entity; they don't have the drop-down menus that the City has in their system that creates standardization.

So I think the resolution needs to be revisited and you know, maybe something can be worked out. I don't know if it requires legislation or not; I haven't looked into that, but we do support the intent of trying to streamline it.

1  
2           Lastly, let me just... two other issues  
3 quickly that I should touch on; the issue of the  
4 amnesty; when I worked in the State Senate I worked  
5 on tax amnesty issues a great deal; the problem with  
6 the reoccurring amnesty that people have suggested  
7 for first-time filers; whenever you do an amnesty, if  
8 you do another one too soon afterwards, what you find  
9 is that people start to game the system and the  
10 amnesties become less and less effective. When we  
11 suggested this as part of the Lobbying Commission  
12 process, we did support the amnesty, a one-time  
13 amnesty; I wouldn't say that we wouldn't support  
14 another one, but I would just caution that if you do  
15 it too frequently people start to expect it and  
16 they'll actually wait to report when they know that  
17 they, you know made an error in the first instance,  
18 but they know an amnesty could be coming, because  
19 that's what has happened in the past.

20           The other issue is one Gene mentioned  
21 around the bundling; we believe that bundling by  
22 lobbyists of campaign contributions should not be  
23 matched.

24           And the other issue that came up during  
25 the process that may be revisited in three to four

1 years is, political consultants that wear two hats;  
2 they're political consultants for campaigns and they  
3 also lobby. We did a report on this back in 2006 and  
4 I know that resulted in a disclosure in the Lobbying  
5 Laws of 2006 of those who do that activity. We  
6 suggested in our recommendations that candidates that  
7 receive matching funds not be able to spend those  
8 matching funds on lobbyists who are also political  
9 consultants. I can tell you at the State level of  
10 the Independent Democratic Conference, Senator  
11 Valesky has introduced a bill that goes much further;  
12 we don't have a position on it at the moment, but it  
13 would actually ban political consultants from also  
14 being lobbyists; it would require them to choose one  
15 hat or the other.

17 GENE RUSSIANOFF: There are serious  
18 constitutional issues, so we haven't really proceeded  
19 with it, but it's been discussed.

20 [background comment]

21 CHAIRPERSON BREWER: sorry... the  
22 individuals who spoke earlier are pushing for the  
23 non-profit community to have a \$10,000 threshold and  
24 do you support that; have you thought about that, as  
25 opposed to a \$5,000?

2 GENE RUSSIANOFF: You could say that we  
3 would think it; we were very comfortable with the  
4 \$5,000 limit, 'cause that is where the State is and...  
5 [interpose]

6 CHAIRPERSON BREWER: Right.

7 GENE RUSSIANOFF: and the likelihood of  
8 that changing any time soon I don't think is very  
9 high... [interpose]

10 CHAIRPERSON BREWER: Okay.

11 GENE RUSSIANOFF: So I... the coordination,  
12 but it's worth, you know, taking a look at again.

13 ALEX CAMARDA: I think there's a value in  
14 standardization for east of administration; I don't  
15 think there's a huge difference between \$5,000 and  
16 \$10,000. That said, you know my concern again is the  
17 database and making this information known and I  
18 think if there's going to be that kind of increase  
19 that there really has to be some urgency behind the  
20 database.

21 CHAIRPERSON BREWER: I mean I think it  
22 always does come down to technology and that's... you  
23 know, that's... DoITT's obviously not here, but I think  
24 that's something that we all need to work on; that  
25 seems to be... you know, sort of the elephant in the

2 room, as you say, in terms of trying to get these  
3 issues... and I think it's a pretty complicated  
4 challenge, 'cause I know generally State and City  
5 databases, at least in Social Services, are  
6 challenging and you know, in addition, just trying to  
7 make this one something that the public wants to pay  
8 attention to.

9 GENE RUSSIANOFF: I would agree with that  
10 very strongly; you know, getting more information out  
11 of the process is what I think the public is  
12 expecting from this exercise.

13 CHAIRPERSON BREWER: Okay. Do you also  
14 think that there... there's a 2012 advisory plan, I  
15 guess, opinion on volunteer board members, and I  
16 didn't know if you... the non-profits mentioned it as  
17 an issue; do you have any comment about that?

18 GENE RUSSIANOFF: We haven't studied it;  
19 we should take a look. [interpose]

20 CHAIRPERSON BREWER: Okay. Okay.

21 ALEX CAMARDA: We have looked at it  
22 preliminarily and we believe that, you know, for  
23 example, for Citizens Union we have board members,  
24 many of whom don't engage in lobbying directly, City  
25 Government at all; that's something that I do and our

2 executive director does and other colleagues of mine,  
3 and so we believe the paid staff are the lobbyists  
4 and they should be the ones who are reported because  
5 they're the ones engaging in the activity.

6 CHAIRPERSON BREWER: Okay. Alright.  
7 Thank you very much... [interpose, background comment]  
8 thank you so much.

9 Alright, so we don't know yet... first of  
10 all, thank you for this excellent testimony and  
11 obviously excellent lobbying commission; I didn't  
12 think no less would be possible with former Council  
13 Member Herb Berman, who chaired the Education  
14 Committee for so many years in the City Council when  
15 I worked for Ruth Messinger, so he's a legend in his  
16 own time. And we don't know when we're gonna be  
17 voting on it or if there'll be changes between now  
18 and then, but we will certainly keep you updated and  
19 I wanna thank particularly the staff of the City  
20 Clerk and everyone who's participated. This hearing  
21 is now concluded. Thank you.

22 [gavel]

23 [background comments]

24

25



C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date            November 20, 2013