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**Nonprofit Organizations Involved in NYC Land Use and Zoning Processes Should Be Aware of Federal Limits on Lobbying Activity and State and Local Lobbying Disclosure Requirements**

Some nonprofit organizations are involved with New York City's land use and zoning processes because they need approval for new construction or changes to existing buildings. Others weigh in on land use and zoning processes in order to protect or improve their communities. Either way, involvement in land use and zoning can implicate federal limits on lobbying activity by 501(c)(3) organizations, and NY State and NYC lobbying disclosure requirements.

As this Legal Alert explains in the chart on the next page, NYC's lobbying law covers involvement in most, but not all, phases of the City's land use and zoning procedures. In contrast, involvement in most phases of the City's land use and zoning procedures falls *outside* both the Internal Revenue Service's limit on lobbying by 501(c)(3) organizations, and NY State's lobbying law.

Organizations that intend to engage in the City's land use or zoning processes should be aware of how that activity might be regulated by the IRS, NY State and NYC. Organizations with 501(c)(3) tax exempt status may lobby so long as it is not a "substantial part" of their overall activities. Organizations must register as a NY State or NYC lobbyist if they anticipate spending more than \$5,000 in a year on activity that NY State or NYC views as lobbying.

## When Is It Lobbying to Try to Influence the NYC Zoning and Land Use Process?

CPC = City Planning Commission  
 BSA = Board of Standards and Appeals

<i>If I participate in or try to influence...</i>						
		<b>ULURP</b>	<b>Application to CPC and City Council for zoning text amendment</b>	<b>Application for special permit or variance from BSA</b>	<b>CPC authorization to modify zoning for a particular project</b>	<b>Request for an interpretation</b>
<i>Is it lobbying for purposes of...</i>	<b>NYC Clerk</b>	<p><b>Not lobbying:</b> Try to influence Department of City Planning Certification.</p> <p><b>Lobbying:</b> All other stages of ULURP.</p>	<b>Lobbying</b>	<p><b>Not lobbying:</b> Try to influence BSA.</p> <p><b>Lobbying:</b> Testify before or try to influence Community Board.</p>	<b>Lobbying</b>	<b>Not lobbying</b>
	<b>NYS Commiss. on Ethics &amp; Lobbying in Gov't (COELIG)</b>	<p><b>Not lobbying:</b> Participate in any step of ULURP prior to City Council review.</p> <p><b>Probably lobbying:</b> Try to influence City Council or Mayoral review of CPC determination.</p>	<p><b>Not lobbying:</b> Attempt to influence CPC.</p> <p><b>Probably lobbying:</b> Try to influence City Council's decision.</p>	<b>Not lobbying</b>	<b>Not lobbying</b>	<b>Not lobbying</b>
	<b>IRS 990</b>	<p><b>Not lobbying:</b> Participate in any step of ULURP prior to City Council review.</p> <p><b>Lobbying:</b> Try to influence City Council or Mayoral review.</p>	<p><b>Not lobbying:</b> Try to influence CPC.</p> <p><b>Lobbying:</b> Attempt to influence City Council.</p>	<b>Not lobbying</b>	<b>Not lobbying</b>	<b>Not lobbying</b>

Nonprofit organizations that attempt to influence zoning or land use decisions in New York City must pay attention to federal limits on lobbying activity and to federal, state and local lobbying disclosure requirements. This chart assesses whether the following activities trigger one or more reporting requirements:

ULURP -- You may be participating in ULURP if you are trying to influence the City's decision about:

- Change to the City Map, including designation or change of zoning districts
- Disposition of city-owned property
- Special permit which requires CPC approval: a developer may apply for a special permit based on the use, location, size or design of a project
- Site selection for capital projects such as sanitation garages, fire houses, libraries
- Revocable consent with land use implications: a grant by the city, revocable at will, for private use on, over or under city property such as bridges over streets or street furniture
- Request for proposals and other solicitations and franchises: a franchise is a grant by an agency of a right to occupy or use the inalienable property of the city to provide a public service such as a private bus line or bus stop shelters
- Major concession: a grant made by an agency for the private use of city-owned property, and which has significant land use impacts and implications or which requires the preparation of an environmental impact statement.
- Housing and urban renewal plans and projects
- Sanitary or waterfront landfills
- Acquisition of real property by the City

Zoning text amendment -- The text of the City's Zoning Resolution establishes zoning districts and sets forth regulations governing land use and development. Zoning text amendments are approved by the CPC and adopted by the City Council.

Application for a special permit or variance from the Board of Standards and Appeals -- Property owners may apply to the BSA for a modification or waiver of the zoning regulations with respect to their property. Before granting such a variance, the BSA will hold a public hearing. Property owners may also apply for a special permit for specified uses, or for the modification of use and bulk in an appropriate case.

CPC authorization to modify zoning for a particular project -- Upon request from an applicant, the CPC may modify certain zoning requirements for a particular project, provided that specific requirements have been satisfied. The CPC is not required to hold a public hearing, although it informally refers applications to community boards for comment. The determination is made in the CPC's discretion, by resolution at a public meeting.

Whether a particular activity counts as lobbying depends on many different factors. Organizations engaged in these activities should consult an attorney to determine whether and how they must report those activities. Lawyers Alliance staff are available to help qualifying nonprofits determine whether they need to register as a lobbyist and how to track and report their lobbying activities and comply with other legal obligations. Please contact Senior Policy Counsel Laura Abel at [label@lawyersalliance.org](mailto:label@lawyersalliance.org) or visit [www.lawyersalliance.org](http://www.lawyersalliance.org) for further information.

*Lawyers Alliance for New York is the leading provider of business and transactional legal services for nonprofit organizations and social enterprises that are improving the quality of life in New York City neighborhoods. Our network of pro bono lawyers from law firms and corporations and staff of experienced attorneys collaborate to deliver expert corporate, tax, real estate, employment, intellectual property, and other legal services to community organizations. By connecting lawyers, nonprofits, and communities, Lawyers Alliance for New York helps nonprofits to provide housing, stimulate economic opportunity, improve urban health and education, promote community arts, and operate and advocate for vital programs that benefit low-income New Yorkers of all ages.*