



June 9, 2016

Richard Briffault, Chair  
Carolyn Lisa Miller, Executive Director  
Wayne Hawley, General Counsel  
Conflicts of Interest Board  
2 Lafayette Street, Suite 1010  
New York, NY 10007

Dear Mr. Briffault, Ms. Miller, and Mr. Hawley,

We write to ask the Conflicts of Interest Board (“the Board”) to review and determine whether the designation “agent of the city” carries an obligation to release conflicts of interest information and financial disclosure statements as is required of public servants under Chapter 68 of the New York City Charter. We further ask whether those who, as of the date of this letter, hold said designation are exempt from publicly disclosing records under provisions of the New York State Freedom of Information Law (FOIL). Because we are hard-pressed to find any law, rule, or regulation that makes mention of this category we ask whether the category exists and if so, what rules and regulations apply to it.

In a *Gotham Gazette* article published on June 1, 2016, journalist Samar Khurshid reported that the office of Mayor Bill de Blasio claims that the five unofficial advisers of the Mayor, who have recently been given the designation “agents of the city” by the Mayor’s legal counsel, are exempt from disclosure requirements by virtue of their new designation.<sup>1</sup> Mayor de Blasio has also referred to these individuals as “advisers,” though they are not employed by his office.<sup>2</sup> Previously, the *New York Law Journal* on May 26, 2016, reported that the title “agents of the city” is currently held by consultants Jonathan Rosen, John Del Cecato, Bill Hyers, and Nicholas Baldick, and U.S. Ambassador Patrick Gaspard.<sup>3</sup> The *New York Law Journal* quoted Counsel to the Mayor Maya Wiley as having said at a news conference that the designation was “very narrow” and it is not the case “that anybody in communication with [the Mayor’s office] who we have a relationship with is necessarily covered by the exemption.”<sup>4</sup>

Chapter 68 of the New York City Charter requires that interests between public servants and firms who have business dealings with the city be publicly disclosed. Chapter 68 makes no mention of “agents of the city” and leaves unclear whether such a designation implies public service. Some of the “agents of the city” have interest in firms that have business before the city.

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<sup>1</sup> Khurshid, Samar, “Should De Blasio’s ‘Agents of the City’ Be Required to File Disclosure Forms?” *Gotham Gazette*. June 2, 2016.

Available at: <http://www.gothamgazette.com/index.php/city/6372-should-de-blasio-s-agents-of-the-city-be-required-to-file-disclosure-forms>

<sup>2</sup> *Ibid.*

<sup>3</sup> Keshner, Andrew, “Mayor’s ‘Agents of the City’ FOIL Exemption Stirs Debate.” *New York Law Journal*. May 26, 2016.

<sup>4</sup> *Ibid.*

If it is the case that an “agent of the city” is a public servant and that they “attempt to influence the course of any proposed legislation” they are required under Sec. 2605 of the New York City Charter to publicly disclose the extent of any financial or other private interest they may have in such legislation. What the intentions of current “agents of the city” are in advising the Mayor, and whether they are attempting to influence the course of legislation, is difficult to determine without the disclosure of their communications with the Mayor’s office, given the unclear relationship they hold with the city. For this reason, we believe it would be useful for the Board to review and determine the nature of the relationship “agents of the city” have with Mayor de Blasio.

Subdivision 2(b) of Section 87 of FOIL states that an agency may set up rules allowing for records to be exempt from disclosure if disclosure “would constitute an unwarranted invasion of personal privacy.” An instance of unwarranted invasion of personal privacy is defined in Subdivision 2(b) of Section 89 of FOIL as *inter alia* when the information disclosed is “of a personal nature reported in confidence to an agency and not relevant to the ordinary work of such agency.” The designation “agent of the city” appears to imply that their undisclosed communications with the Mayor are not solely “of a personal nature” and, as advisers to the Mayor, are at least partially relevant to the work of the Mayor’s office – an “agency” under Sec. 86 of FOIL. If the five unofficial advisers to Mayor de Blasio are to benefit from the “agents of the city” designation, should they not also comply with the obligations and responsibilities of other public officials, such as releasing conflicts of interest information and financial disclosure statements?

Other permitted exceptions to the requirement of public disclosure of agency records, further defined in Subsection 2 of Section 87 of FOIL include, but are not limited to, if the records are inter-agency or intra-agency materials. Because “agents of the city” are not employed by the Mayor’s office or other agencies, the designation does not readily signal a formal relationship with a city agency, which often involves payment, except for the determination of the Mayor’s office that they do have a formal relationship therewith. The nature and extent of this relationship does not appear to have been made public.

Because it is unclear exactly what the nature of an “agent of the city” is, and what their relationship to the Office of the Mayor is, Citizens Union believes it would be invaluable for New Yorkers to know, and for the Board to make a determination, as to whether this category constitutes a public servant, whether it falls under the purview of the Board, and which other rules (*eg.* FOIL) apply to it. Such determinations will provide a clear answer as to whether an “agent of the city” is exempt from disclosing financial and private conflicts of interest, and communications with the Mayor’s office.

Citizens Union appreciates the Board’s review and determination regarding into this matter. Should you need further information, please contact me at 212-227-0342. Thank you for your attention to this entire issue.

Sincerely,

Dick Dadey  
Executive Director