



CITY OF BEVERLY HILLS STAFF REPORT

Meeting Date: December 1, 2009
To: Honorable Mayor & City Council
From: Laurence Wiener, City Attorney
Subject: Request by Council member Mirisch for disclosure of confidential memorandum

INTRODUCTION

The City Attorney's Office recently provided the City Council with a confidential memorandum regarding the proposed ordinance requiring legislative advocates, as defined in the City's municipal code, to wear an identification badge while engaging in advocacy at City Hall. City Council member Mirisch has requested that the City Council consider releasing this memorandum to the public.

DISCUSSION

The City Attorney is ethically obligated to preserve the confidentiality of attorney-client communications.

Additionally, the California Evidence Code generally prohibits any person who is entitled to receive a confidential attorney-client communication from disclosing that communication, unless the holder of the privilege permits the disclosure.

The City of Beverly Hills, by and through the City Council, is the "holder" of the attorney-client privilege between the City and its City Attorney. As the holder of the privilege, the City, through its City Council, may elect to waive the privilege and disclose to the public confidential communications from the City Attorney to the City Council.

Council member Mirisch has requested that the City Council consider waiving the attorney client privilege for the limited purpose of allowing council members to publicly release the confidential City Attorney memorandum to the City Council regarding the "lobbyist badge ordinance."

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FISCAL IMPACT

This item would have no fiscal impact.

RECOMMENDATION

This is a policy decision for the City Council and the City Attorney will implement the decision of the City Council.

Laurence S. Wiener, City Attorney
Approved By

