

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



Advisory Opinion No. 1

A City employee, X, requests an opinion of the Ethics Commission in connection with the following facts:

X is an inspector assigned to inspect and investigate drinking establishments for the purpose of detecting, preventing and discouraging liquor law violations. For approximately the past three years, X has been engaged in the activity of selling real estate for two or three hours a week. On one occasion, X sold a mainland property to a government worker, Y. Y in turn found a buyer for this property who happened to be a bar owner. X prepared and processed the transfer papers for Y in the subsequent sale as a courtesy matter since Y had been his client. X's involvement in the foregoing transaction resulted in a reprimand by the Liquor Commission. X desires to keep active in real estate selling since his goal is to obtain a broker's license and one of the prerequisites thereto is two years of real estate sales activity.

The question presented is whether any violation of the Code of Conduct set forth in Section 11-101 of the City Charter exists if X engages, or continues to engage, in real estate selling activities.

In the instant situation, X had been engaged in real estate sales activities in good faith as there appeared to be no specific Liquor Commission rule or regulation prohibiting outside free-lance selling activities on the part of its inspectors. X's frank and candid testimony before the Commission is to be commended. We hold, however, that any employee of the City invested with public police powers by virtue of his position should not engage in outside free-lance selling activities, such as the selling of real estate or of insurance, where an element of solicitation exists. We maintain this position irrespective of whether or not such solicitation involves person or business which the solicitor, as a City inspector, has a duty to police.

Section 11-101.3 of the City Charter provides that:

No appointive officer or employee may engage in outside employment or in any business or professional activity which may impair his independence of judgment in the exercise of his official duties, . . . or which is otherwise inconsistent or incompatible with or which interferes with the proper discharge of his official duties.

In the opinion of the Ethics Commission, if X continues to engage in real estate selling activities, he will be engaging in outside employment which may impair his independence of judgment in the exercise of his official duties.

Dated: Honolulu, Hawaii, June 7, 1967.

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