

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



ADVISORY OPINION NO. 133

The question is whether or not the membership by a member of the City Council [Council] on a development advisory committee [committee] could result in the violation of any standards of conduct in the Revised Charter of Honolulu 1973 (1984 Edition) [RCH] or the Revised Ordinances of Honolulu 1978.

In reviewing a brochure published by the committee regarding a community master plan, the Ethics Commission [Commission] notes that ABC Property Development Corporation [ABC] originally requested the formation of this committee. The brochure states that the committee decided that "in order to more effectively advise ABC in its planning endeavor, a plan for the future . . . was necessary." Thus, the committee "embarked on a program to produce this . . . plan with the assistance of several planning consultants who were simultaneously participating in the . . . master planning effort."

The brochure concludes with twelve "Major Proposals of the . . . Plan." These proposals include designation of the parcel, its urbanization and various proposals for traffic circulation and utility improvements.

Many of the proposals of this advisory committee will inevitably come before the Council for official action. Since this committee is proposing these various changes, it will be in a position of advocating the changes it has proposed. Thus, the committee goes beyond being merely advisory in nature.

In determining whether or not the councilmember's membership on the committee would be a conflict, the Commission finds that two Charter provisions are relevant.

Section 11-102.3, RCH, states:

No elected or appointed officer or employee shall:

. . . .

3. Engage in any business transaction or activity or have a financial interest, direct or indirect, which is incompatible with the proper discharge of his official duties or which may tend to impair his independence of judgment in the performance of his official duties.

Section 11-104, RCH, states:

No elected or appointed officer or employee shall use his official position to secure or grant special consideration, treatment, advantage, privilege or exemption to himself or any person beyond that which is available to every other person.

Due to the committee's close association with private business interests, the councilmember's involvement in this committee could be viewed as an activity which could tend to impair his independence of judgment in his duty to vote on issues before the Council proposed or advocated by the committee. Even if the committee becomes a nonprofit organization, its history and the nature of its proposals make it difficult to lose the association with ABC. In addition to the factors already pointed out regarding that association, the Commission notes that the brochure prepared by the committee was funded in part by a grant from ABC.

The councilmember's involvement could also be viewed as an effort to use his official position to secure special treatment for the private interests affected by the community master plan.

For the reasons the Commission has indicated herein, it recommends that the councilmember not accept an honorary membership in the advisory committee as such a membership would create a conflict with his duties as councilmember.

Dated: March 20, 1984

GILBERT A. GIMA
Acting Chair
Ethics Commission