

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



ADVISORY OPINION NO. 158

The question is whether a City employee's outside activity as a real estate broker-salesman conflicts with his duties and responsibilities as an engineer in a City department whose employees have the responsibility to review and make recommendations regarding complaints.

The Ethics Commission [Commission] understands the facts to be as follows:

1. The subject employee is an engineer with a City agency.
2. He possesses a real estate broker's license and is connected with a realty company as a broker-salesman.
3. His duties as an engineer include investigation of complaints, preparation of reports, inspection, checking and recommendation.

The standards of conduct applicable to this situation are Revised Charter of Honolulu 1973 (1983 Ed.) [RCH] Subsections 11-102.2 and 11-102.3, which state:

Section 11.102. Conflicts of Interest--No elected or appointed officer or employee shall:

....

2. Disclose confidential information gained by reason of his office or position or use such information for the personal gain or benefit of anyone.
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.

"Financial Interest" as defined in Revised Ordinances of Honolulu 1978, Section 6-1.1(6) means:

- (6) 'Financial interest' means an interest held by an individual, the individual's spouse, or minor children which is: (A) an ownership interest in a business; (B) a creditor

interest in an insolvent business; (C) an employment or prospective employment for which negotiations have begun; (D) an ownership interest in real or personal property; (E) a loan or debtor interest; or (F) a directorship or officership in a business.

When the foregoing facts are applied to the specific RCH provisions mentioned above, the Commission finds that the employee's financial interest as evidenced by his employment in the real estate field could impair his independence of judgment in the performance of his official duties. His official duties as related previously can include decisions which impact on those in the real estate field. While his responsibilities which relate to private subdivision projects are only part of his total responsibilities and some of the duties listed above may occur infrequently, the possibility still exists for his financial interests to influence him in the performance of his official duties.

The Commission in no way suggests that the employee has violated the standards of conduct in his behavior previously, but to avoid a possible conflict of interest, it finds that his license should be inactivated.

Dated: March 11, 1986

GILBERT A. GIMA
Chair, Ethics Commission