

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



Advisory Opinion No. 19

This is in response to your request for a review of the disclosure of conflict of interest submitted by Employee X, employed in your agency.

We are of the opinion that there is a conflict of interest.

A review of the disclosure reveals that X has supervisory responsibilities with a real estate salesman's license. His significant duties relevant to our decision are: (1) Assists his superior with the exercise of independent judgment and decision in administering, supervising and coordinating an urban renewal project; (2) directs and supervises the inspection of property and of family survey forms; (3) establishes procedures for the conduct of the foregoing surveys; and (4) in the absence of his superior, he is the acting head.

The foregoing duties indicate that X is in a supervisory capacity and exercises independent judgment and decision. Thus, his real estate activities, although in his letter he stated that he would restrict his activity without the project area, may give rise to a situation which may violate Section 11-101.1(b) of the City Charter*. An example of a situation giving rise to a conflict of interest which may violate the ethics provisions cited herein above is where he may have a listing of real property located without the project area which an owner of the real property located within the project area may be interested for relocation purposes, and he may suggest one of his listings not realizing there are any violations because he was rendering assistance to a relocation resident because the project was not within the project area. There is a violation in the foregoing case because as an administrator of the rehabilitation project, he was able to obtain the information relative to the relocation of the resident which was not available to other real estate salesmen. Further, he may, in pursuit of real estate commission fees as in the foregoing example, acquire financial interest in real property situated without the project area which may be directly or indirectly involved in official action to be taken by him such as a decision requiring a resident to relocate and, therefore, be in violation of Section 7-14.2(b), R.O. 1961, and Section 53-3, HRS.

Also having a real estate salesman's license as an administrator of HRA projects which involve real property and other interest therein may give rise to an appearance of a possible conflict of interest. The possibility of such conflict of interest exists because he will be reviewing and approving rehabilitation programs which may involve the sale or exchange of real property located within the project. Therefore, if he retains an active real

estate salesman's license, the property owners within the project may speculate that he has a real estate salesman's license to further his own interests.

Additionally, we are of the view that a City employee who has the authority to exercise independent judgment and decision which may involve real property or interest therein should not be engaged in outside free-lance selling activities such as the selling of real estate where an element of solicitation exists. Such solicitation may make X appear to the public that his solicitation of real estate sales is in conjunction with his employment with HRA because it primarily deals with real property or interest therein. Based on the foregoing, we conclude that in the case of X there is a possibility of a conflict of interest if he retains his real estate salesman's license because of his significant duties.

This is not to say, however, that the Commission is requiring X to give up his license but recommends that X inactivate his real estate salesman's license.

In closing, we commend X for submitting a disclosure of conflict of interest prior to engaging in actual sales of real property. Submission of conflict of interest disclosures prior to engaging in outside employment saves City officers and employees readjustment of activities if the Commission finds that a particular outside employment was in conflict.

Dated: Honolulu, Hawaii, September 21, 1971.

ETHICS COMMISSION

Very Rev. Robert R. Mackey, S.M., Chairman