

**ETHICS COMMISSION  
CITY AND COUNTY OF HONOLULU**



ADVISORY OPINION NO. 214

This advisory opinion is in response to a letter requesting advice from the Ethics Commission as to whether someone with an active real estate license who is also an officer of two organizations which furnish real estate related services is eligible to serve on the City's Building Board of Appeals.

The Ethics Commission understands the facts relative to this inquiry to be as follows:

The newly appointed board member is an officer of two organizations which furnish real estate related services. She also holds an active real estate license. She has been confirmed as a member of the Building Board of Appeals of the City and County of Honolulu.

The Building Board of Appeals hears appeals and grants variances in regard to the Building Code, Electrical Code, Plumbing Code, and Fire Codes. It receives all testimony and makes all its decisions in public meetings. The Board goes into executive session only to receive advice from its attorney, which occurs infrequently. No information is given to the Board that is not available to the general public.

The ethical question presented is whether the newly appointed board member's positions in the two organizations which furnish real estate services with an active real estate license presents a conflict of interest such that she would be ineligible to serve on the City's Building Board of Appeals.

The general rule in relation to this question is found in the Revised Charter of the City and County of Honolulu 1973, (1984 Ed.), Section 11-102.3, which states in pertinent part:

No elected or appointed officer or employee shall... [e]ngage in any business transaction or activity or have a financial interest, direct or indirect, which is incompatible with the proper discharge of such person's official duties or which may tend to impair the independence of judgment in the performance of such person's official duties.

Based on its understanding of the facts of this case, the Ethics Commission finds that the new board member is eligible to serve on the Building Board of Appeals under certain conditions. She must follow the requirements for an exception to the general rule in the case of board or

commission members as found in the guidelines on real estate licenses issued by the Ethics Commission on March 21, 1988.

As explained in the guidelines, the board or commission member must file an affidavit with the Ethics Commission in which she agrees to **limit her real estate activities** to real property that will not be affected by pending, required, or anticipated official action by the Building Board of Appeals. Further, the affidavit must indicate that she agrees to **abstain from official action** that affects real property in which she has or appears to have an interest. Since the new board member is an officer of two organizations which furnish real estate related services, the affidavit must also apply to all real property in which these two companies appear to have an interest.

Dated: November 13, 1991

JANE B. FELLMETH  
Chair, Ethics Commission