

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



ADVISORY OPINION NO. 219

This advisory opinion is in response to a letter requesting advice from the Ethics Commission as to whether a tax clerk in the Real Property Assessment Division of the Department of Finance may start his own business filing exemption claims for homeowners without violating the post-employment restrictions of the Revised Charter of the City and County of Honolulu 1973 (1984 Ed.) [RCH] or the Revised Ordinances of Honolulu 1978 (1983 Ed.) [ROH].

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

After several years in the Real Property Assessment Division of the Department of Finance, the tax clerk left City employment. The tax clerk's duties included clerical tasks required in updating property records, computing land and building values, sketching building perimeter floor areas, providing general information to the public, and typing various reports, notifications, and records. None of this work dealt with confidential information, nor was there any discretionary aspect to the performance of these tasks.

The ethical question presented is whether the proposed business would violate the post-employment restrictions of the City and County of Honolulu as stated in the Charter and Ordinances.

The first general rule in relation to this question is found in RCH, Section 11-105, which states in pertinent part:

No person who has served as an...employee of the city shall, within a period of one year after termination of such...employment, appear for compensation before any agency of the city, or receive compensation for any services rendered in behalf of any private interests in relation to any case, proceeding or application with respect to which such person was directly concerned, or which was under such person's active consideration, or with respect to which knowledge or information was made available to such person during the period of said... employment.

Additional general rules are found in ROH, Section 6-1.3(a)(b) and (c), which state in pertinent part:

No former...employee of the City shall disclose any information which by law or practice is not available to the public and which the former...employee acquired in the course of

his or her official duties or use the information for his or her personal gain or the benefit of anyone.

No former...employee of the city shall within a period of one year after termination of city...employment and for compensation appear before any city agency in respect to which such person was directly concerned or which was under the person's active consideration while employed or in the service of the city.

A former...employee of the city may, within a period of one year after termination of city...employment and for compensation: (1) appear before any city agency in any case, proceeding or application, with respect to which knowledge or information in relation to such case, proceeding or application, was made available to the former...employee during the term of employment...; or (2) assist another person or business, including but not limited to one in which such person is an officer or employee, in any official act or action by the city; provided that in either instance the former city...employee shall first file an affidavit as provided below.

Such former...employee of the city shall file a sworn affidavit with the city agency involved stating that the former...employee (1) was not directly concerned with, (2) did not actively consider, (3) did not participate in, and (4) was not given access to knowledge or information not readily available to the public during the period of said...employment, with respect to such case, proceeding or application or other matter before the city agency.

Based on the evidence presented, the Commission finds that the tax clerk's proposed business will not violate the Charter or Ordinances of the City and County of Honolulu, provided that each time he submits documents to any City agency he also submits the required sworn affidavit, a sample of which is attached.

Attachment

Dated: October 12, 1992

JANE B. FELLMETH
Chair, Ethics Commission

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

AFFIDAVIT

 (Name) , being first duly sworn on oath, deposes and says as follows:

1. That he/she is a former officer/employee of (City agency) , of the City and County of Honolulu, and was employed by that agency as a (position) from (date) until the date of his/her resignation/retirement, which was effective at the close of business on (date) .

2. That he/she is (or will be) employed by (name of firm) , whose principal place of business is (street address) , Honolulu, Hawaii , and is appearing before (City agency) on (date) regarding

3. That during the one-year period prior to the date of this affidavit, while an employee of (City agency) , of the City and County of Honolulu that:

- a. He/she was not directly concerned with the above described matter;
- b. The above described matter was not under his/her active consideration; and
- c. No knowledge or information was made available to him/her which was not readily available to the public during said period.

4. That he/she has read and is aware of the restrictions relative to post employment embodied in Section 6-1.3 of the Revised Ordinances of Honolulu, and Section 11-105, Revised Charter of the City & County of Honolulu, and the Ethics Commission's *Guidelines on Post Employment Restrictions*.

Further affiant sayeth naught.

 (Signature)

Subscribed and sworn to before me
this day of , 19 .

Notary Public, State of Hawaii