

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



Advisory Opinion No. 267

This is an advisory opinion in response to your letter requesting advice from the Ethics Commission as to whether a conflict of interest would be created if you were to serve on an advisory council.

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

You are a City officer, a resident of Kailua, and you have a long-standing interest in issues related to sewage treatment. In addition, your background and training enable you to read scientific reports with understanding.

The consent decree that settled a lawsuit established the advisory council. This eight-member organization consists of four persons selected by the City and four others chosen by the plaintiffs, all of whom serve without pay. The advisory council will oversee projects that will enhance the operation of the Kailua Sewage Treatment Plant. The plaintiffs have selected you as the representative of the subgroup "government agencies" on the advisory council.

The ethical question presented is whether service on the advisory council would create a conflict of interest with your position as a City officer.

The general rule in relation to your question is found in the Revised Charter of the City and County of Honolulu 1973 (1994 Ed.), Section 11-102(e), which states in pertinent part:

No elected or appointed officer or employee shall... [r]epresent private interests in any action or proceeding against the interests of the city or appear in behalf of private interests before any agency....

Based on the evidence presented, the Ethics Commission finds that a conflict of interest is not created at the present time by your service on the advisory council. Because the advisory council is a new entity, it is not possible to anticipate exactly how it will function, but you do not expect that the advisory council will appear before any City agency or take an advocacy position that could be construed as being "against the interests of the city." It is the Commission's understanding that if the advisory council takes advocacy positions against the City and County of Honolulu or decides to testify before the City Council, you will promptly resign from the advisory council. Because of that agreement, the Ethics Commission did not address the question of whether the plaintiffs and/or the advisory council constitute "private" interests and therefore takes no position on the matter.

Dated: February 1, 1996

SAMUEL L. DOMINGO
Chair, Ethics Commission