

**ETHICS COMMISSION  
CITY AND COUNTY OF HONOLULU**



Advisory Opinion No. 277

This is an advisory opinion in response to your letter requesting advice from the Ethics Commission as to whether a particular nomination to a commission is prohibited by the ethics laws.

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

The potential nominee "A" is employed by a corporation ("XYZ"). A is a governmental affairs representative and a lobbyist registered with the City and County of Honolulu on XYZ's behalf.

You would like to nominate A to serve on the Neighborhood Commission. The responsibilities of that agency include: developing, after public hearings, a neighborhood plan; reviewing and evaluating the effectiveness of the plan and of neighborhood boards; and amending, after public hearings, the neighborhood plan.

The ethical question presented is whether A's employment with XYZ prevents A from serving on the Neighborhood Commission.

The general rules in relation to your question are found in the Revised Charter of the City and County of Honolulu 1973 (1994 Ed.) [RCH] and the Revised Ordinances of Honolulu 1990 [ROH]. Section 11-102 (e), RCH, 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**.... (emphasis added)

Section 3-8.2 (c), ROH, reiterates the Charter prohibition quoted above. The provision, however, goes on to state an exception to that rule:

...provided, however, that a member of any board, commission or committee, whose board, commission or committee does not exercise either quasi judicial or quasi legislative power, may appear for compensation in behalf of private interests before agencies other than the one on which such person serves and other than those agencies that have the power to review the actions of the agency on which such person serves, or to act on the same subject matter as the agency on which such person serves....

Additionally, ROH, Section 3-8.3 (d) states in pertinent part:

...the term "appear before any city agency" includes acting as an agent or attorney for, or otherwise representing, any other person or business in any formal or informal appearance. "Appear" also includes making any oral or written communications, including letters or telephone calls, to any city agency or personnel with the intent to influence on behalf of any other person or business....

The Neighborhood Commission clearly does not exercise quasi judicial power. However, its

responsibility to develop and amend the neighborhood plan after public hearings is indicative of the quasi legislative power exercised by the Neighborhood Commission.

Based on the evidence presented, the Ethics Commission unanimously finds that as long as A's employment requires that A make any type of appearance on behalf of XYZ with any agency of the City and County of Honolulu, A is prohibited from serving on the Neighborhood Commission or on any other City agency that is either quasi legislative or quasi judicial.

Dated: January 28, 1997

GOLDIE D. BRANGMAN-DUMPSON  
Chair, Ethics Commission

