

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



Advisory Opinion No. 285

This is an advisory opinion in response to your letter requesting advice from the Ethics Commission as to whether your partial ownership of a particular piece of land creates a conflict of interest with your City office.

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

You are responsible for the preparation and implementation of the City's operating and capital budgets. Based upon the recommendation of staff, you submit to the Mayor a proposed City budget each year. Although it is rare for you to become personally involved in the details of individual agency budgets, it may occur.

Through a trust you have a thirty percent (30%) interest in a company whose wholly owned subsidiary owns in fee simple the land under a condominium. The land is leased on a long term basis to the condominium's association of apartment owners.

The requisite number of condominium owner-occupants have filed an application with the City's Department of Housing and Community Development [DHCD] for mandatory conversion of the leasehold land under Chapter 38, Revised Ordinances of Honolulu [ROH]. A public hearing for the first stage of the process has been scheduled for the condominium conversion on January 22, 1998. The agency responsible for handling such conversions is the Leasehold Condominium Conversion Unit of DHCD. In addition, there will be some work required by the Department of Corporation Counsel. These agencies may seek additional funding or staffing to implement ROH Chapter 38.

The ethical question presented is whether your partial ownership of the fee simple interest in the land beneath the condominium might tend to impair your independence of judgment in the performance of your duties 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.) [RCH], Section 11-102 (c), 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 the evidence presented, the Commission finds that you have no conflict of interest in regard to your partial ownership of land beneath the condominium. Although you prepare a City budget for the Mayor, he has the last word on what is submitted. Ultimately the budget must be adopted by the Council, and it may vary from that proposed by the Mayor. All of which means

that your decision-making power in regard to the City's budget is limited. Furthermore, your financial interest in the company which will be negotiating with owner-occupants of the condominium is shared with a family member and is a minority interest. Thus, the issue of whether your independence of judgment would be impaired is not a significant one.

Dated: January 20, 1998

FAY M. UYEMA
Chair, Ethics Commission