

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



Advisory Opinion No. 53

The disclosure of interest submitted by Employee X of your department was referred by the Mayor to this Commission for its review because he possesses a real estate salesman's license.

We are of the opinion that the retention of a real estate salesman's license by Employee X may give an appearance of or may tend to create a conflict with the public interest.

Employee X stated that he is employed as a Civil Engineer I and is assigned on a rotation basis to various sections in the Division of Engineering. Among the sections he has been assigned to are checking of subdivision plans and checking plans in conjunction with issuance of a grading permit. He is presently assigned to the highways section. He further stated that the rotation program will be in effect until 1977, and whether he will return to subdivision plans processing or review grading plans is indefinite. Also, he is engaged in the sale of real estate in conjunction with his father, who is a real estate broker.

Under the foregoing circumstances, the specific provision of the Revised Charter which is applicable is:

Section 10-104. Fair and Equal Treatment — No elected or appointed officer or employee shall use his official position to secure or grant special consideration, treatment, advantage, privilege or exemption to himself or any person beyond that which is available to every other person.

When the facts in this case are examined in the light of RCH Section 10-104, his official position as Civil Engineer I in the Division of Engineering gives him the opportunity or advantage or privilege of prior information relative to a proposed subdivision or land development. Thus, the fact that he possesses a real estate salesman's license under such circumstances would make him suspect in the eyes of the public that he may take advantage of such an opportunity for his private benefit, although in fact he had no intention so to do.

We are aware that he is no longer assigned to sections which process subdivision plans or plans for grading permits. However, the Division of Engineering continues to be involved in subdivision and grading plans review and approval. Consequently, the public may assume that Employee X, who has a real estate salesman's license, may take advantage of his position. Therefore, whether Employee X does or does not review any subdivision plans or grading plans will have little or no bearing in the eyes of the public.

Moreover, the fact that Employee X is engaged in real estate sales with his father, who is a real estate broker, may give rise to the suspicion that he may transmit information relating to proposed subdivision or land development to his father, although he himself will not take direct advantage of such opportunity.

In view of the foregoing, we conclude that Employee X should inactivate his real estate salesman's license with the State Real Estate Commission.

Dated: Honolulu, Hawai'i, April 16, 1970.

ETHICS COMMISSION
Nathaniel Felzer, Chairman