

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



Advisory Opinion No. 82

By letter of April 21, 1978, you requested an advisory opinion from this Commission regarding the purchase of a condominium apartment in a project known as "X."

We are of the opinion that there is no violation of any of the standards of conduct contained in the Revised Charter or the Revised Ordinances of Honolulu 1969 arising out of the purchase of the apartment.

You testified, under oath, that you purchased the apartment when the sale of the apartments in the "X" project was authorized for public sale. Moreover, one of the reasons you purchased the apartment was because you are acquainted with the developer of the project. We further note that, when an apartment within a condominium project is authorized for public sale, all of the land use ordinances have been approved by the Council; and the only thing that remains is the issuance of the building permit for the completion of the project.

You stated that you hold a position as an Executive Assistant in the Office of the Managing Director but that you are assigned specifically to the Department of Transportation Services.

In passing, we are aware that you filed a disclosure with this Commission although you were not required so to do pursuant to the provisions of RCH Section 10-103. You were not required to file a disclosure because the purchase of the condominium did not result in a conflict of interest; that is, your position as Executive Assistant assigned to the Department of Transportation Services gives you no authority to take official action with respect to the "X" project. The same holds true relative to the issuance of the building permit since the Office of the Managing Director and the Department of Transportation Services do not have the statutory authority to issue building permits.

Additionally, because of your position, we find that RCH Section 10-102.3 is not applicable. That section provides that no officer or employee shall engage in a business transaction or activity or have a financial interest which is incompatible with the proper discharge of his official duties or which may tend to impair his independence of judgment in the performance of his official duties. Your business activity or financial interest in the "X" project is not incompatible with the proper discharge of your duties, nor is there any tendency to impair your judgment in the performance of your duties as an Executive Assistant assigned to the Department of Transportation Services as none of your duties and responsibilities require that you take official action on any aspect of the "X" project.

Since you hold a position as an Executive Assistant in the Office of the Managing Director assigned to the Department of Transportation Services, we conclude that you are in no position to solicit or accept gifts which may tend to influence you in the performance of your official duties (see RCH Section 10-102.1) or to disclose confidential information favorable to the developer (see RCH Section 10-102.2) or to give special treatment to the developer (see RCH Section 10-104). Our conclusion is based on the fact that your duties and responsibilities do not involve any aspect of the "X" project while it was in the process of obtaining the required certification and approval from the City Council, Department of Land Utilization, and the Building Department.

To summarize, we conclude that there were no violations of the foregoing standards of conduct mentioned hereinabove because, as an Executive Assistant in the Office of the Managing Director assigned to the Department of Transportation Services, it in no way authorizes you to take official action on any matter concerning the "X" project.

Dated: Honolulu, Hawaii, July 11, 1978.

ETHICS COMMISSION
Rev. William Smith, Chairman