

**ETHICS COMMISSION  
CITY AND COUNTY OF HONOLULU**



**Advisory Opinion No. 87**

This is in reference to the disclosure of outside employment filed by Employee X, whose job title is Abstractor II with the Land Division of the Department of Public Works, which was referred to this Commission by the Managing Director for an advisory opinion.

We are of the opinion that violation of any of the standards of conduct provisions of the Revised Charter and Revised Ordinances of Honolulu 1969 by the incumbent as an abstractor for a private abstracting company is remote.

We understand that as an employee of the City her primary function is to examine pertinent land documents to a specific real property and submit a written report as to its chain of title of the subject real property or any interest therein to be purchased by the City. Such report, which is known in real property circles as an Abstract of Land Title, is reviewed by her superiors and subsequently used by any officer or employee involved in the acquisition of real property or interest therein for the City. We further understand that as an abstractor for a private abstracting company she does similar work, except such information is utilized by individuals who purchase such service from the private abstracting company for whom she works after her regular working hours on a part-time basis. After reviewing the basic duty and responsibility of an abstractor either for the City or for a private firm, we believe it does not entail discretionary action by Employee X. In other words, she is not in a position to make a choice or selection which would place her in an incompatible position as a City and County employee and as a private abstractor or to impair her judgment in carrying out her duties and responsibilities as a City employee.

Her specific duty and responsibility as an abstractor are to examine all of the documents relating to a specific real property located within the State and note and report what those documents contain until the record shows that there is no more transfer of interest of that real property for which the abstract was ordered. The same routine is observed as an abstractor for the private abstracting company. Whether as an employee of the City or the employee of the private firm, she'll be detailing accounts of what the records contained in the Bureau of Conveyances or Land Court in relation to a specific real property located in this State. There is no room for deviation or omission because if she does, she can be held responsible for such deviation or omission as an employee of the City, or the private abstracting company may be held liable for erroneous Search of Title to real property.

A question may be raised whether there is an incompatibility if she has to do an Abstract of Title on real property owned by the City for the private abstracting company. When we apply the classic triangle test (see M 78-56) to this situation, we obtain the following results: <sup>1</sup>

There is a solid line from the block representing her as a private employee and to the block as a City employee. Another solid line extends from the block as a private employee to the block representing the City property upon which she is doing abstract work for the private abstracting company, but there is no solid line between the block as a City employee and the block representing the City property because there is no possibility of Employee X doing abstract work on the same City property.

On the other hand, what if she was doing abstract work on the City property at the same time she was doing abstract work for the private abstracting company on the same City property? From the technical standpoint, we can find no reason for her to be doing an abstract on City owned property because such records would already be on file in her department, so long as that property is owned by the City. If that property is sold to a private individual or transferred to the State, the City would have no necessity to do an abstract thereon because the last transaction would be part of the record of the City department. Therefore, there are no solid lines to link all three blocks.

Based on the foregoing, we conclude that the possibility of any violation of the standards of conduct provisions in the Revised Charter or the Revised Ordinances of Honolulu 1969 is remote.

Dated: Honolulu, Hawaii, December 18, 1978.

ETHICS COMMISSION  
Rev. William Smith, Chairman

