

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



Advisory Opinion No. 13

You requested an opinion of the Ethics Commission in connection with the following facts:

You have a real estate salesman's license and intend to utilize said license by entering into a training program with a real estate firm. In the process of such training program, you will be meeting prospective clients and eventually will be having clients of your own after such training period is over. You are primarily interested at this time to prepare yourself for useful vocation after your retirement from the Police Department.

The Ethics Commission is of the opinion that a conflict exists if you enter into the selling of real estate as set forth herein above.

We reach the foregoing conclusion by virtue of the following considerations:

- (1) There exists the possibility, or the appearance of the possibility to third persons, that your independent judgment may be impaired in the discharge of your official duties, should your clients or prospective clients be involved in an infraction of the law. The chance of such probability to occur becomes greater as you increase your clientele.
- (2) There may be an appearance of inconsistency or incompatibility in the instant case if you are involved in the selling of real estate because there is a probability that you may have to "puff"* the various aspects of the commodity you are selling to make a sale. Such "puffing" may be legitimate in dealings in the marketplace, but such "puffing" by a police officer may be detrimental to his position as a police officer. It may be detrimental because a police officer is believed to be truthful in all matters and any "puffing" may create doubt as to the police officer's truthfulness and veracity in connection with other matters. The creation of such doubt will also have detrimental effects upon the entire Police Department. This may be the result because generally, third parties expect police officers to be of impeccable moral character, and such allegations affect the efficiency of the department. Here again the probability of its occurrence becomes greater as your clientele increases.
- (3) In view of your position with the City, there may be the possibility, or at least the appearance to third parties of the possibility, of your maintaining an advantage

of gain in your commercial pursuits. This advantage would appear to exist solely by virtue of your official position. For example, the advantage that may inure to your benefit may be your contact with other employees of the City who may directly or indirectly be involved in the approval of the zoning requests, building permits, grading permits, fire inspection and other functions performed by the City relative to real property.

In stating that these possibilities, or the appearance of these possibilities to the public, exist, it is not the intention of the Ethics Commission to suggest that you are guilty of improper behavior. Rather, it is because irrespective of your behavior that the public would tend to give such a relationship an appearance of wrongdoing that this Commission feels a dual role on your part would constitute a violation of section 11-101.3 of the City Charter:

No appointive officer or employee may engage in outside employment or in any business or professional activity which may impair his independence of judgment in the exercise of his official duties, or which might require or induce him to disclose confidential information acquired by reason of his official position or which is otherwise inconsistent or incompatible with or which interferes with the proper discharge of his official duties.

This is not to say, however, that the Ethics Commission is implying that you should give up your real estate salesman's license. Since you desire to have a useful vocation after your retirement, we recommend that you place your real estate salesman's license on the inactive list during the remainder of your employment with the Police Department, and upon retirement therefrom, you should reactivate your real estate salesman's license.

*Webster's Third New International Dictionary, 1967, defines "puff" or "puffing" as "seller's or dealer's talk in praise of the virtues of something offered for sale."

Dated: Honolulu, Hawaii, February 1, 1971.2

ETHICS COMMISSION

Very Rev. Robert R. Mackey, S.M., Chairman