

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



ADVISORY OPINION NO. 138

On March 7, 1983, the Ethics Commission [Commission] issued Advisory Opinions Nos. 116 and 117 relating to whether possession of a real estate salesman's or broker's license and the professional or business activities related thereto created a conflict of interest for certain employees of the Liquor Commission.

Both opinions concluded that a conflict of interest existed, citing various hypothetical examples to demonstrate that conflict. The Commission recommended that both employees of the Liquor Commission inactivate their real estate salesman's/broker's licenses.

On February 14, 1984, the Commission issued Advisory Opinion No. 130 relating to whether the same kind of outside professional activity addressed in Advisory Opinions Nos. 116 and 117 created a conflict of interest for an employee of the City Council [Council]. The Commission found that a conflict did exist and, again, cited various examples to demonstrate the nature of the conflict. In Advisory Opinion No. 130, the Commission recommended that the employee could avoid any conflict of interest by not entering into any transaction involving a parcel of land on which Council action was pending, required, or anticipated.

On May 24, 1984, the Commission issued Advisory Opinion No. 137 affirming Advisory Opinion No. 130. Advisory Opinion No. 137 involved a Council employee in a fact situation identical to that of Advisory Opinion No. 130. During the course of the hearings held regarding Advisory Opinion No. 137, the Commission decided to review Advisory Opinions Nos. 116 and 117 to determine if they were compatible with Advisory Opinions Nos. 130 and 137. After a thorough review of the matter, the Commission has decided to amend the recommendation portion of Advisory Opinions Nos. 116 and 117 and to affirm those opinions in all other respects.

The Commission hereby amends Advisory Opinions Nos. 116 and 117 to state that the employees in those two cases may retain their real estate salesman's/broker's licenses as long as they avoid being involved in any transaction in which a member of the liquor industry or anyone subject to the rules and regulations promulgated by the Liquor Commission is a party to the transaction.

The Commission has amended Advisory Opinions Nos. 116 and 117 because it decided that limiting the use of the real estate licenses in these cases, as in the cases of the Council employees, is a sufficient way to avoid conflicts of interest for the Liquor Commission employees. As in Advisory Opinions Nos. 130 and 137, the Commission has prepared affidavits

to be signed by the Liquor Commission employees involved.

This opinion is limited to the fact situation described in Advisory Opinions Nos. 116 and 117 and interested persons are encouraged to review the advisory opinions cited in this opinion for a thorough discussion of the conflicts of interest involved in those cases.

Dated: May 25, 1984

GILBERT A. GIMA
Acting Chair
Ethics Commission

Note: The Ethics Commission's *Guidelines on Real Estate Licenses*, issued March 21, 1988, supersede Advisory Opinion No. 138.