

**ETHICS COMMISSION  
CITY AND COUNTY OF HONOLULU**



**ADVISORY OPINION NO. 140**

This advisory opinion concerns whether a conflict of interest exists between the duties of a part-time legislative aide with the City Council [Council] and his outside employment as an officer of an advertising/marketing firm and a real estate brokerage firm.

The pertinent facts are as follows:

The legislative aide is an officer and supervisor of an advertising agency.

His areas of responsibility include: developing marketing and promotional programs for clients; supervising various agency accounts; and setting up public relations programs for various clients.

The legislative aide possesses a real estate salesman's license and works for a real estate brokerage of which he is part owner.

He is on the board of directors of a computer company.

He is presently a legislative aide working twenty hours per week with the City.

As a legislative aide, his primary responsibilities include drafting resolutions, mingling with constituents, handling constituent complaints, and attending board meetings. His duties are assigned to him by the councilmember for whom he works.

In determining whether there is any conflict of interest or any appearance of a conflict of interest between his City employment and his other employment, interests or activities, the Commission looks at the standards of conduct provisions set forth in the Revised Charter of Honolulu 1973 (1983 Ed.) [RCH] and the additional standards of conduct set forth in the Revised Ordinances of Honolulu 1978 [ROH]. The Commission wishes to call attention to several relevant provisions of the standards of conduct found in the RCH.

Section 11-102.3, RCH, states:

No elected or appointed officer or employee shall...  
[e]ngage in any business transaction or activity or have a financial interest, direct

or indirect, 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.

Section 11-104, RCH, states:

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.

Section 6-1.2(5), ROH, provides:

No officer or employee of the City, except as hereinafter provided, shall...[e]nter into any contract in behalf of the City with an officer or employee or with a business in which an officer or employee has a controlling or substantial financial interest, involving the furnishing of services, materials, supplies, and equipment unless the contract is made after competitive bidding; provided that this paragraph shall not apply to personal contracts of employment with the executive branch of the City as prescribed in subsections (g) and (h) of Section 6-303 of the Revised Charter or equivalent contracts with the legislative branch of the City as prescribed in subsection (f) of Section 6-304 of the Revised Charter.

Based on the information provided, the Commission does not find any conflicts of interest in the legislative aide's situation at present. The Commission has called attention to these particular standards of conduct so that he will be aware of potential conflict of interest situations that may arise. For example, he informed the Commission that none of the businesses in which he has a financial interest and none of his clients have any matters before the Council. Should any of his clients or any business in which he has a financial interest have any matter before the Council in the future, he should be aware that it would be a violation of Section 11-104, RCH, to use his official position to secure or grant special consideration for them beyond that which is available to every other person.

Further, it would be a conflict of interest under Section 11-102.3, RCH, for him to handle any public relations work for a client who had a matter pending before the Council.

Under Section 6-1.2(5), ROH, the businesses in which he has a substantial financial interest would not be able to enter into a contract with the City involving the furnishing of services, materials, supplies, or equipment unless the contract was made after competitive bidding.

Advisory Opinion No. 137 concerns Council employees who possess a real estate license. That opinion states that a senior advisor to a councilmember may not engage in any transactions in land or acquire any interest in land in which Council action is pending, required, or anticipated. The legislative aide should be aware that the broker with whom he works has signed an affidavit indicating that he will not allow any salespersons on his staff to engage in the types of transactions indicated above.

As stated earlier, the Commission does not see a conflict of interest at present. The Commission has presented several standards of conduct for consideration should matters arise in

the future, and described hypothetical situations which could arise. If at any time the situation changes and the facts are no longer as described in this opinion, or if a particular question arises, the legislative aide should contact the Commission again for an opinion based on the changed circumstances or the particular question.

Dated: July 24, 1984

GILBERT A. GIMA  
Chair, Ethics Commission

Note: The Ethics Commission's *Guidelines on Real Estate Licenses*, issued March 21, 1988, supersede Advisory Opinion No. 137.