

**ETHICS COMMISSION  
CITY AND COUNTY OF HONOLULU**



**ADVISORY OPINION NO. 151**

This advisory opinion is rendered pursuant to a request received by the Ethics Commission [Commission] regarding whether it is appropriate for a former City employee to represent a client before an agency of the City within one year of having left his City employment.

The applicable ordinance regarding former employees is Revised Ordinances of Honolulu 1978 [ROH] Section 6-1.3. The Ordinance states, in pertinent part, as follows:

Sec. 6-1.3. Restrictions Relative to Post Employment.

(a) Except as hereinafter provided, no former officer or employee of the City shall for compensation and within a period of one year after termination of service or employment:

(1) Appear before any agency in relation to any case, proceeding or application with respect to which such person was:

(A) directly concerned; or

(B) which was under his active consideration; or

(C) with respect to which knowledge or information was made available to him, unless he files a sworn affidavit with the agency he intends to do business with:

(i) that he was not directly concerned with such case, proceeding or application; or

(ii) such case, proceeding or application was not under his active consideration; or

(iii) no knowledge or information was made available to him which was not readily available to the public during the period of said active service or employment with respect to such case, proceeding or application.

....

(b) For purposes of this section the one year referred to above in connection with the phrase "termination of his city service or employment" shall begin from the time said former officer or employee last participated in a case, proceeding, or application in which such person (1) was directly concerned, or (2) which was under his active consideration, or (3) with respect to which knowledge or special information was made available to him.

While there is no written opinion on the matter, paragraph (b) which discusses the one-year period has been interpreted to mean that the one-year period begins to run from the time the former officer or employee last participated in the case, proceeding or application with respect to which the officer or employee is seeking to appear before the City agency. Thus, if the officer or employee were actively involved in a case in January 1984, terminates City employment in January 1985 and seeks to appear before a City agency with respect to that case in July 1985, he or she may appear before that agency. Over one year has passed since the officer or employee was actively involved in the case.

The Commission understands the facts of this case to be as follows:

1. The former employee terminated City employment in (date).
2. In (date), he filed an affidavit in accordance with ROH Section 6-1.3 because he planned to represent a client before one or more City agencies with respect to a case which had been in the department with which he had served.
3. The affidavit indicated that the former employee had not been directly concerned with the case, that the case had not been under his active consideration and that no knowledge or information regarding the case had been made available to him which was not readily available to the public during his period of active service.
4. In (date), the former employee, after meeting with the Commission, submitted an amended affidavit which added to the previous affidavit that in (date), the department in which he served issued an opinion about this case which was reviewed by the former employee and was also made public. The amended affidavit indicated that this was the former employee's last involvement with the case.
5. It was the standard procedure of the department that policy matters and not routine matters be brought to the attention of the former employee and his department head. The present case was considered routine.

The Commission finds that the former employee may appear before the City agencies involved with respect to this case.

The former employee's amended affidavit indicated that his only involvement in this case occurred in (date). As was discussed earlier, for purposes of determining when a former officer or employee may appear before an agency, the one-year period during which he or she may not appear runs from the time the officer or employee was last involved in the case. In this instance, the time would run from (date) and would be over in (date). Thus, the one-year bar period was over well before (date) when the former employee sought to appear before a City agency.

The affidavits prepared in this case were submitted in accordance with ROH Section 6-1.3. ROH Section 6-1.3(d) provides that any officer or employee who makes a false affidavit shall be deemed to have committed perjury and is subject to criminal prosecution for perjury. The Commission has no reason to challenge the validity or accuracy of the affidavits and is convinced that the former employee, in fact, was not actively involved in this matter.

For the preceding reasons, the Commission finds that the former employee may appear before the City agencies involved in the instant case.

Date: July 31, 1985

GILBERT A. GIMA  
Chair, Ethics Commission