

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



ADVISORY OPINION NO. 189

The question is whether an employee who is a landscape architect [employee] may volunteer his services, name, and stamp as a landscape architect to private interests for plans that require approval from the Department of Land Utilization [DLU].

In general, ethical questions will not arise if the employee designs and donates the landscape plans to private interests as long as he omits his name and stamp on plans presented to the DLU for approval. The DLU does not require a landscape architect's name and stamp on landscape plans submitted with architectural plans. If the employee wishes to have his name and stamp on the plans, ethical questions will arise, and the Commission will then respond to a written request from the employee or his appointing authority for an opinion.

The Commission understands the facts to be as follows:

The employee is a landscape architect who has offered his services as such free of charge to a church for the development of a landscape plan for a property where construction is planned on the North Shore.

The DLU reviews and approves architectural plans bearing the name and stamp of an architect. Normally, the DLU does not have the authority to approve landscape plans that are included with architectural plans. The DLU does review and approve landscape architectural plans for special areas such as the Shoreline Management Area, in which the church's property is located on the North Shore. A licensed landscape architect does not need to sign and stamp these plans, but architects usually have a landscape architect do so in order to improve the presentation made to the DLU.

Given these facts, the ethical question is whether, under Section 6-1.2(3), Revised Ordinances of Honolulu 1978 (1983 Ed.) [ROH],¹ licensed design professionals, such as

¹Section 6-1.2(3), ROH, states:

No officer or employee of the City, except as hereinafter provided, shall ... [a]ppear in behalf of private interests before any agency other than a court of law, nor shall he represent private interests in any action or proceeding against the interests of the City in any litigation to which the City is a part; provided, however, that a member of any board, commission or committee, whose board, commission or committee does not exercise either quasi-judicial or quasi-legislative power, may appear for compensation in behalf of private

landscape architects, "appear" before a City agency when they

- a. volunteer personal services, name, and professional stamp to private interests, or
- b. work for a non-profit, non-partisan, human-services organization.

The general rule is that the presence of a design professional's name and stamp on plans submitted for City approval constitutes a prohibited appearance under Section 6-1.2(3), ROH.

The Commission does not need to address this question because landscape plans that are required and therefore included with architectural plans for the church's property in the Special Shoreline Management Area do not need a landscape architect's name and stamp affixed in order to obtain DLU approval. Therefore, the employee may volunteer his services but omit his name and stamp on the plans. If the architect wishes to include the employee's name and stamp in order to make a better presentation to the DLU, the Commission will address this question herein at the employee's written request.

In conclusion, an employee who is a landscape architect has asked the Commission whether he may volunteer his services, signature, and professional stamp as a landscape architect on plans by a church to build on a North Shore property, which is in the Shoreline Management Area. Normally, the DLU approves architectural plans but not landscape plans. The DLU does review and approve landscape plans for work within the Shoreline Management Area, such as the work planned for the church's property. However, the DLU does not require the landscape architect's name or professional stamp on the plans. Therefore, in this case, the employee may design the plans without signing and stamping them and thereby avoid any questions of appearances before the DLU. If the employee wishes to sign and stamp the plans, he may request in writing that the Commission determine whether an appearance 1) without compensation or 2) for an organization such as a church is a violation of the City's standards of conduct.

Dated: July 26, 1988

JANE B. FELLMETH
Chair, Ethics Commission

interests before agencies other than the one on which he serves and other than those agencies that have the power to review the actions of the agency on which he serves, or to act on the same subject matter as the agency on which he serves; provided further that no officer or employee shall be denied the right to appear before any agency to petition for redress of grievances caused by any official act or action affecting his personal rights, privileges or property, including real property. This prohibition shall not apply to any architect, landscape architect, surveyor or engineer registered as such under the provisions of HRS Chapter 464, who is a City employee or officer, with respect to the affixing by such registered professional of his registered stamp to any plans, specifications, drawings, etc., to be submitted to the City for permits for his principal residence or that of members of his immediate family; provided that the stamp is accompanied by a signed statement that the work was prepared by the person stamping the document or under his supervision; and provided further that the registered professional may not, in the capacity of a City employee or officer, review, approve, or otherwise act upon the plans, specifications, drawings, etc., he has stamped. For the purposes of this section, "immediate family" means the employee's or officer's spouse, siblings, children, or parents; spouse's children or parents; or children's spouses.