

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



ADVISORY OPINION NO. 193

This advisory opinion is in response to a request for advice from the Ethics Commission [Commission] as to whether a firefighter's possession of an active real estate license is compatible with his city employment.

In general, the Commission believes that he should inactivate his real estate sales license because his official duties may include enforcement of the Fire Code. However, he may activate his license in order to buy or sell a residence for himself and inactivate it after such purchase or sale.

He should inform the Fire Department's [Department's] personnel officer in writing before activation and after inactivation.

The Commission understands the facts to be as follows:

The employee is a Firefighter III with Fire Department, and his official duties include enforcing the Fire Code.

He also has an active real estate license, which he uses infrequently. He wishes to keep the license active in order to buy or sell residences for himself.

The question presented is whether under Section 11-102.3, Revised Charter of the City and County of Honolulu 1973 (1984 Ed.) [RCH], a City employee who has authority to enforce the law may have an active real estate sales or broker license.

Section 11-102.3, RCH, states in pertinent part as follows:

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 such person's official duties or which may tend to impair the independence of judgment in the performance of such person's official duties.

The general rule under this standard of conduct is that City personnel who have authority to enforce any laws should not have an active real estate sales or broker license. This rule applies to, among others, employees of the Department, the Police Department, the Building Department, the Liquor Commission. It has also been in effect for many years. For example, in Advisory Opinion No. 94 [AO #94], issued November 24, 1980, the Commission advised the Department that senior Firefighters should not have active real estate licenses because they have

the authority to enforce the law. The Commission affirmed and restated this rule in its *Guidelines on Real Estate Licenses*, which were distributed to all City agencies.

In this case, the general rule applies explicitly to your situation because the subject of AO #94 is a Firefighter III. Accordingly, you should inactivate your real estate license as soon as possible in order to avoid real or apparent conflicts of interest. However, you may activate your license for the purpose of buying or selling a home for yourself and inactivate your license again after such purchase or sale. Before activation and inactivation, you should advise the Department's personnel officer in writing of your plans.

In conclusion, the Commission believes that you should inactivate your real estate sales license because keeping it active is incompatible with the proper discharge of your duties to enforce the Fire Code. If you wish to buy or sell a residence for yourself, you may activate the license for this purpose alone and inactivate it after such purchase or sale, provided you advise your personnel officer in writing beforehand of your proposed actions.

Dated: November 21, 1988

JANE B. FELLMETH
Chair, Ethics Commission