

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



ADVISORY OPINION NO. 215

This advisory opinion is in response to a letter requesting advice from the Ethics Commission as to whether a conflict of interest exists due to the weekend real estate activities of an engineer in the Department of Public Works.

The Commission understands the facts relative to this inquiry to be as follows:

In addition to his City position as an engineer for the Department of Public Works, the employee has outside employment on weekends as a real estate salesperson. The request for an opinion stated that he "**may** have access to information that **may** impact real estate activity." It was also stated that the engineer "**may** get involved with plan reviews submitted by developers" and that he "**may** have access to information not currently made public which **may** be used for real estate development" (emphasis added). However, his direct supervisor believes the frequency of such occurrences would be very seldom, if at all. Further, within his section there are other similar positions which would allow for the possibility of work redistribution.

The ethical question presented is whether the engineer's outside employment as a real estate salesperson automatically creates a conflict of interest with his City position in the Department of Public Works.

The general rule in relation to this question is found in the Standards of Conduct in the Revised Charter of the City and County of Honolulu 1973 (1984 Ed.) [RCH]. Section 11-102(3), RCH, states in pertinent part:

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.

Based on the information presented, the Commission finds that no conflict of interest is automatically created by the engineer's employment as a real estate salesperson. Anything in prior advisory opinions numbered 157 and 158 which is in conflict with this advisory opinion is overruled.

It should be noted, however, that it is possible that a situation could arise in which the engineer's real estate work does create a conflict of interest with his City position. At that time, the engineer would be required to take immediate measures to resolve the conflict. The office of the Ethics Commission is available to advise him if such a situation occurs. Furthermore, if the facts in regard to this employee change, he may wish to come back to the Ethics Commission for another opinion.

The engineer should also be cautioned that Section 11-102(2), RCH, is a blanket prohibition against the disclosure of confidential information for any reason. That section states in pertinent part:

No elected or appointed officer or employee shall... [d]isclose confidential information gained by reason of such person's office or position or use such information for the personal gain or benefit of anyone.

Dated: March 25, 1992

JANE B. FELLMETH
Chair, Ethics Commission