

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



Advisory Opinion No. 234

This is an advisory opinion in response to a letter requesting advice from the Ethics Commission as to whether the confirmation of an individual ("A") to the Board of the Honolulu Public Transit Authority [HPTA] would create a conflict of interest with A's position as executive director of a private association.

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

The Mayor has appointed A to serve as one of the directors of the HPTA, which administers and operates the city bus system as provided by Section 13, Article 5, Revised Ordinances of Honolulu 1990. A question has been raised as to whether A's employment would create a conflict of interest with A's position as a director of HPTA.

A is the executive director of a private association, which is incorporated in the State of Hawaii as a nonprofit 501 (c) (3) corporation. In an attachment to the Articles of Incorporation, Exhibit 1 states that private association's purpose is "to provide the Leeward region of Oahu, **and ultimately the island as a whole**, with a better means to accommodate its transportation needs...." (emphasis added)

Additionally, it describes the private association as being "[o]rganized and operated as a public service...."

The ethical question presented is whether A's employment as executive director of the private association would be incompatible with A's duties as a member of the HPTA Board or would impair the independence of A's judgment in performing A's duties as an HPTA Board member.

The general rule in relation to your question is found in the Revised Charter of the City and County of Honolulu 1973 (1984 Ed.) In Section 11-102.3, which 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 evidence presented, the Commission finds that the confirmation of A to the Board of the HPTA would not create a conflict of interest with A's position as executive director of the private association. A's employment is not incompatible with the proper discharge of the duties of a director of HPTA, nor should it tend to impair the independence of A's judgment in that role.

The Ethics Commission does caution A, however, that if any matter ever comes before HPTA which A believes does constitute a specific conflict of interest, A should file a Disclosure of Outside Interest Statement (Form EM-2) with the Mayor and the Ethics Commission. In that

case, A should also follow the direction of the *Guidelines on Abstention from Voting* issued by the Ethics Commission on April 13, 1993. A copy of each document is attached.

Dated: February 15, 1994

SAMUEL L. DOMINGO
Chair, Ethics Commission