

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



Advisory Opinion No. 237

This is an advisory opinion in response to a letter requesting an opinion from the Ethics Commission as to whether a City officer ("A") violated the Standards of Conduct of the City and County of Honolulu when A used City employees and 'ulelo-subsidized equipment to produce an official administration television program with political content.

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

On September 1, 1993 (and repeating on September 8, 1993), during "Ask the Experts," a television program produced by the City administration and shown on 'ulelo: The Corporation for Community Television, videotape of a speech by A at the banquet for graduating apprentices of the Carpenter's Union was aired. In that speech A said, among other things,

as the newly elected state official, I pledge to break the land monopoly that is responsible for many of the problems that we have....I'll get rid of the State Land Commission, you can count on that. The construction industry can also count on me to cut red tape to the bones....As the newly elected state official, this will be one of my first priorities--to make sure that the construction industry does not have a boom and bust type industry....The point is, we need someone at the top to say to the construction industry we're gonna make sure you're kept busy indefinitely....We're talking about several hundred millions dollars worth of work....

A has publicly declared to be a candidate for the elected state office, although A has not yet been required to file officially as a candidate for that office.

In a letter to the Ethics Commission dated November 12, 1993, A stated, "my conservative advisors have suggested that I refrain from any further specific references to my state candidacy aspirations on the 'ulelo show, and **in the interests of putting this controversy 'to bed,' I am willing to do so.**" (emphasis added)

The ethical question presented is whether A used A's current elected position to secure special advantage beyond that which is available to every other person by using an official City administration television program prepared by City employees using 'ulelo-subsidized equipment to promote A's state candidacy ambitions.

The general rule in relation to the question is found in Section 11-104 of the Revised Charter of the City and County of Honolulu 1973 (1984 Ed.) [RCH] which states the following:

Elected or appointed officers or employees shall not use their official positions to secure or grant special consideration, treatment, advantage, privilege or exemption to themselves or any person beyond that which is available to every other person.

Furthermore, on October 16, 1989, the Ethics Commission issued its *Guidelines on Campaign Activities*, which were approved by Managing Director Jeremy Harris. In that document, the Commission specifically stated that City officers and employees should not "[u]se one's official position to give unwarranted advantages to campaigns".

Based on the evidence presented, the Commission finds that A violated Section 11-104, RCH, by making campaign promises related to A's state candidacy on an official City administration television program which was produced by City employees using "city-subsidized equipment. A has been asked to follow through on the pledge to the Ethics Commission not to make reference to A's state candidacy ambitions in future official City administration television programs.

Dated: May 9, 1994

SAMUEL L. DOMINGO
Chair, Ethics Commission