

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



Advisory Opinion No. 246

This is an advisory opinion in response to a letter requesting advice from the Ethics Commission as to whether a conflict of interest exists between A's City employment and A's service on the board of directors of a private company ("XYZ").

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

A is a City officer. In addition, A has served since August 1992 on the board of directors of XYZ, the corporation which operates the Hawaii franchise for a rent-a-car company and two Oahu automobile dealerships. Furthermore, beginning in the spring of 1994, A provided management advisory services for another company. However, A resigned from that position prior to January 30, 1995. A and A's spouse are also co-owners of a personal corporation which is dormant and which A expects will remain dormant during A's service to the City. The purchase or leasing of automobiles by the City and County of Honolulu is done by a sealed bid process, and the City does not use rental cars on this island. Furthermore, the new state-mandated procurement process is being monitored in the City and County of Honolulu by citizen panels. Based on A's past involvement with the company, A does not foresee any likelihood of XYZ coming before a City agency. However, if XYZ needs to appear before a City agency in regard to a discretionary matter, A is willing to resign A's directorship at that time.

The ethical question presented is whether A's financial interest as a member of the board of directors of XYZ creates a conflict of interest with A's position as a City officer.

The general rule in relation to your question is found in the Revised Charter of the City and County of Honolulu 1990, Section 11-102(c), 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 A's financial interest as a member of the board of directors of XYZ does not create a conflict of interest with A's position as a City officer under the facts stated above. However the Ethics Commission should be contacted to reevaluate this matter if any of the facts change.

Dated: February 13, 1995

SAMUEL L. DOMINGO
Chair, Ethics Commission