

**ETHICS COMMISSION  
CITY AND COUNTY OF HONOLULU**



Advisory Opinion No. 261

This is an advisory opinion in response to your letter requesting advice from the Ethics Commission as to how to negotiate with Bishop Estate in regard to the land upon which your home rests without creating even the appearance of a conflict of interest with your City position. The Commission understands the facts relative to your inquiry to be as follows:

You are a City officer. In March 1992, before you came to work for the City, the landowner offered you the fee interest in the leasehold land on which your family home is located. Since you were unable to purchase the property at that time, you negotiated an option to purchase the fee interest by March 1996. You paid the landowner a nonrefundable fee of \$8,000, which can be applied to the purchase price. You are still unable to afford the fee interest, and you want to find out if the option can be extended.

Currently two matters concerning the landowner are before the City.

Furthermore, on rare occasions you are with representatives of the landowner at social functions.

You wish to avoid even the appearance of impropriety in your dealings with the landowner. Toward that end, you propose to designate an attorney as your agent in dealing with the landowner. The attorney would be empowered to handle all negotiations, returning to you at the conclusion of his discussions with a final offer for you to accept or reject. You want to avoid having any personal conversations with agents of the landowner until the negotiations have been completed.

The ethical question presented is how best to deal with the landowner in regard to the fee interest in the real property on which your home is located without creating the appearance of a conflict of interest with your City position.

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 your proposal to use an attorney as your agent in all communications with the landowner, empowering the attorney to negotiate your final offer, creates no conflict of interest for you in your capacity as a City officer. Such a procedure will put you at arm's length in the transaction. Furthermore, since you will not be personally involved in the negotiations, that should prevent even the appearance of impropriety

from arising.

Dated: October 24, 1995

SAMUEL L. DOMINGO  
Chair, Ethics Commission