

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



Advisory Opinion No. 279

This is an advisory opinion in response to your letter requesting advice from the Ethics Commission as to whether a nominee ("A") to a board possesses business interests that create a conflict of interest with the performance of duties as a member of the board.

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

A has been nominated to serve as a member of a board ("Board") of the City and County of Honolulu. In that connection, a question has been raised about one of A's investments.

A owns a minority interest in XYZ, a limited partner of DEF, with no say in its operations. He also owns a corporate partner with a minority interest in DEF. DEF is in turn a minority partner of HIJ with no say in its operations. Two recreational parks (the "Parks") are owned and operated by HIJ. A's indirect minority interest equals approximately 1.6 per cent and carries with it no possibility of being involved in any way in the management of the Parks.

The licenses for the Parks, which require and have Board approval, are issued to an independent company, TUV. A has indicated that if confirmed, he would recuse himself from dealing with any matter before the Board concerning the Parks or TUV.

The ethical question presented is whether A has an indirect financial interest that would be incompatible with the proper discharge of A's duties as a Board member.

The general rule in relation to your question is found in the Revised Charter of the City and County of Honolulu 1973 (1994 Ed.), 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 Ethics Commission finds that A's small, indirect financial interest in the Parks, for which TUV has the relevant license, is not incompatible with the proper discharge of official duties as a Board member. A's investment is too remote to cause a conflict of interest, provided that A recuses himself from any discussion of or decision on any matters that concern the Parks or TUV.

Dated: March 13, 1997

GOLDIE D. BRANGMAN-DUMPSON
Chair, Ethics Commission