

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



Advisory Opinion No. 287

This is an advisory opinion in response to your letter requesting advice from the Ethics Commission as to whether a conflict of interest would be created if you were to serve on a board ("Board") of the City and County of Honolulu [City].

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

You are an attorney with a law firm ("Law Firm"). Your professional corporation is a partner in the Law Firm. You have been appointed by the Mayor to serve on the Board and are beginning the confirmation process.

The legal matters handled by the Law Firm are primarily in defense of claims, rather than representing plaintiffs. The Law Firm currently has no matters pending against the City. Furthermore, the City Council recently approved the retention of the Law Firm to represent retired Honolulu Police Chief Nakamura and others in a lawsuit. The Law Firm will be representing the City in that case. Your spouse currently serves as deputy director of a City department.

Additionally, you have a relative who is an employee of the Board.

The ethical question presented is whether you have business or financial interests that would create a conflict of interest with service as a member of the Board.

The general rule in relation to your question is found in the Revised Charter of the City and County of Honolulu 1973 (1994 Ed.) [RCH], 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 relationship to the Law Firm does not constitute a financial interest that is incompatible with the proper discharge of official duties nor would it tend to impair independence of judgment in the performance of the duties of the Board. However, if any matters impacting upon your relative's position come before the Board, you are expected to recuse yourself.

Furthermore, you are cautioned that if you serve as a City officer, RCH 11-102 (e) provides the following restrictions on your employment as an attorney:

No elected or appointed officer or employee shall... [r]epresent private interests in any action or proceeding against the interests of the city or appear in behalf of private interests before any [city] agency....

Dated: February 2, 1998

FAY M. UYEMA
Chair, Ethics Commission