

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



Advisory Opinion No. 289

This advisory opinion is in response to your letter requesting an opinion as to whether a conflict of interest would be created if a former City officer ("A") were appointed to serve on the City's Transportation Commission [TRN].

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

A retired from the City. Subsequently, A was appointed to the Board of Directors of the Honolulu Public Transit Authority until its demise on June 30, 1997.

You are considering appointing A to serve as a member of the newly-created TRN in which capacity A would become an officer of the City. The TRN is purely advisory and functions as neither a quasi judicial nor a quasi legislative body within the City structure.

A is currently employed full time by a general consulting engineering firm, at its branch office in Honolulu. A has 29 years of engineering experience, particularly in the area of transportation. Since leaving A's City employment A has worked only on projects located outside of the State, but A now plans to become involved in projects on Oahu. Such work would inevitably necessitate appearances before various City agencies.

The ethical question presented is whether A's professional employment as a consulting engineer involved in projects located in Honolulu would create a conflict of interest with A's service as a member of the City's TRN.

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(e), states in pertinent part:

No elected or appointed officer or employee shall... appear in behalf of private interests before any [City] agency, except as otherwise provided by law.

However, members of the TRN fall within an exception to that provision which is found in the Revised Ordinances of Honolulu 1990 [ROH], Section 3-8.2(c), which states in pertinent part:

No [City] officer...shall [a]pppear in behalf of private interests before any [City] agency...provided, however, that a member of any board, commission or committee, whose board, commission or committee does not exercise either quasi judicial or quasi legislative power, may appear for compensation in behalf of private interests before agencies other than the one on which such person serves and other than those agencies that have the power to review the actions of the agency on which such person serves, or to act on the same subject matter as the agency on which such person serves....

The Ethics Commission finds that A may serve on the TRN without creating a conflict of interest with A's full time employment, providing A does not make any appearance before the

Department of Transportation Services.

However, the Commission wishes to note that both the RCH and ROH impose certain employment restrictions upon former officers and employees for the first year after leaving City service. These continue to apply to A, whether A is appointed to the TRN or not. The full text of these provisions can be found as part of the Guidelines on Future Employment that are attached to this opinion.

Attachment

Dated: March 20, 1998

FAY M. UYEMA
Chair, Ethics Commission

