

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



Advisory Opinion No. 303

This is an advisory opinion in response to your request for advice from the Ethics Commission as to whether you may represent private interests before the City Council and its committees.

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

You are a member of a law firm and you serve on a board of the City and County of Honolulu.

On October 27, 1999, you represented your clients before the City Council's Budget and Economic Development Committee. At that time a question was raised by a Councilmember about your appearance before the committee.

You anticipate that there will be times when your work as an attorney will require you to again represent private interests before the City Council or its committees.

The ethical question presented is whether your representation of clients before the City Council or its committees violates the charter's prohibition against officers appearing on behalf of private interests before City agencies.

There is no question that, as a member of the board, you are an officer of the City. You clearly fall within the definition of the term "officer" in the Revised Charter of Honolulu 1973 (1994 edition)[RCH], Section 13-101.4(b), since you are a "person appointed...as a member of any board..."

The *Standards of Conduct* in RCH, Section 11-102(e), state in pertinent part:

[n]o elected or appointed officer or employee shall... appear in behalf of private interests before any agency, **except as otherwise provided by law** (emphasis added).

In the charter's *General Provisions* found in Section 13-101.1, RCH, the following is stated:

The term "agency" shall mean any office, department, board, commission or other governmental unit of the city **excluding the council and its offices** and any commission excluded by the provisions of this charter (emphasis added).

The definition of "agency" in RCH, Section 13-101.1 creates an exception to the Standards of Conduct's prohibition against making appearances on behalf of private interests. It is an exception "as otherwise provided by law." And, since committees of the Council are limited in their membership to Councilmembers, they are simply subsets of the Council.

It must be noted that, in apparent conflict with the charter, the *Additional Standards of Conduct* in the Revised Ordinances of Honolulu 1990 [ROH], Section 3-8.1, specifically state that the definition of agency "means and includes...the council and its committees." However, since the City is a creature of its charter, ordinances must conform to the charter. Although the definition of agency in ROH, Section 3-8.1, includes the council and its committees, that definition cannot prevail when it is not consistent with the charter.

Therefore, the Ethics Commission finds that you may appear before the City Council, its office,

and its committees representing private interests while serving as a City officer without violating the Standards of Conduct. However, you are cautioned that you may not appear before any **other** City agencies on behalf of private interests while you continue to be an officer of the City and County of Honolulu.

Dated: January 18, 2000

FAY M. UYEMA
Chair, Ethics Commission

