

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



Advisory Opinion No. 4

A city employee, X, requests an opinion of the Ethics Commission in connection with the following facts:

X is a Right of Way Agent, formerly with the Division of Land Survey and Acquisition, Department of Public Works, and who is now with the Board of Water Supply. X's position with the City is that of a Right of Way Agent. The duties of a Right of Way Agent include the acquiring of easements and lands in fee simple in connection with, in the case of his present employment, water pipelines and wells and watershed areas. X's outside activity is the selling of fire and burglary systems to industrial concerns and households. As a Right of Way Agent, X has no authority to determine the amount of compensation to be paid to private individuals in the acquisition of their property interests by the City. The amount of compensation is determined by a staff appraiser or from appraisals made by independent contractors.

The question presented is whether any violation of the Code of Conduct set forth in Section 11-101 of the City Charter exists if X engages, or continues to engage, in his outside selling activities.

It is the opinion of the Ethics Commission that under the foregoing circumstances there exists the possibility of X's use of his position with the City to further the sales of the items related to his outside employment. For example, although it is the understanding of the Ethics Commission that the value of the property interest to be acquired from a private individual is fixed by a staff appraiser or a contract appraiser, a Right of Way Agent may, by not divulging the amount of compensation which he is authorized to offer, commence negotiations for acquisition with a very low value offer. He could then, in negotiating, give the property owner the impression that he, the Right of Way Agent, is responsible for raising the valuation which represents the ultimate offer of compensation for the property interest being acquired. For this reason it is the opinion of the Ethics Commission that X's outside selling activities would be violative of Section 11-101.3 of the City Charter, particularly that portion thereof which reads:

No appointive officer or employee may engage in outside employment ... which is otherwise inconsistent or incompatible with or which interferes with the proper discharge of his official duties.

Dated: Honolulu, Hawaii, February 2, 1968.

ETHICS COMMISSION

John W. Anderson, Jr., Chairman

Harold H. Ohama, Vice Chairman

(Mrs.) Mildred P. Briner, Member

Hiro Higuchi, Member

Andrew J. Salz, Member

Robert L. Stevenson, Member