

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



Advisory Opinion No. 47

This is in response to your letter of August 27, 1975, requesting the Ethics Commission to determine whether or not Employee X violated any of the provisions of the standards of conduct in the Rev. Ordinances of Honolulu 1969 and the Revised Charter.

Our answer is no. Our investigation has revealed that Employee X is involved in two outside fields of activity. The first activity is in conjunction as President and Treasurer of a management consulting, consulting engineering, and real estate brokerage firm, while the second activity is in conjunction with real estate investment for which he has a real estate broker's license.

Employee X by profession is an electrical engineer, and he is employed by the Board of Water Supply as Civil Engineer V and is assigned to the Engineering Division. His primary activity is to design electrical systems for the Board of Water Supply pumping stations and review, electrical systems developed by contractors for Board of Water Supply pumping stations. He further indicated that he does come in contact with the proposed capital improvement program and budget of the Board of Water Supply because he works on electrical systems or reviews electrical systems for future pumping stations to be constructed either by the Board of Water Supply or for the Board of Water Supply by private contractors.

As to his work as an engineering consultant, his activity is primarily confined to the neighbor islands, while his management consultant work is done on O'ahu as well as the neighbor islands. However, it deals primarily with determining economic feasibility of purchasing an existing business.

The pertinent provision which would be applicable in this situation is RCH Section 10-104, which reads:

No elected or appointed officer or employee shall use his official position to secure or grant special consideration, treatment, advantage, privilege or exemption to himself or any person beyond that which is available to every other person.

The facts show that Employee X, because of his duties and responsibilities, has access to capital improvement program and budget information. This access, when considered in the light of his real estate broker's license, gives him an advantage over others in connection with information dealing with probable future developments in the real estate area within the City and County of Honolulu based on the future capital improvement program and budget established by the Board of Water Supply. Thus, at first blush, there appears to be a conflict of interest. However, there will be no actual conflict of interest until and unless he utilizes any capital improvement program

or budget information for his personal gain.

In the light of the "appearance" of a conflict of interest, we recommend that he inactivate his real estate broker's license so long as he is an employee of the Board of Water Supply with direct access to capital improvement program and budget information.

When the facts of his consultant activities are considered in light of said Section 10-104, apparently his duties and responsibilities do not present any advantage over others.

To summarize, we conclude that there is no violation of said RCH Section 10-104 despite his accessibility to capital improvement program and budget information of the Board of Water Supply, because there is no evidence that he utilizes such information for his personal gain. However, we recommend that he inactivate his real estate broker's license, because his accessibility to such information gives rise to a possible appearance of violation of said Section 10-104.

As to his activity as a management and engineering consultant, we conclude that there is no violation of said Section 10-104 or an appearance of a possible violation thereof.

Dated: Honolulu, Hawai'i, October 30, 1975.

ETHICS COMMISSION

Nathaniel Felzer, Vice Chairman