

OPINION NO. 8

The State Ethics Commission has received a request from an officer of a state department who is a licensed Real Estate Broker and an independent Realtor and who is a partner having a \$60,000 interest in an apartment building which he also manages, for an opinion as to whether these private interests are in conflict with his state position.

As a department officer he is responsible for a department-wide program of property management, and, specifically, conceives and implements policies relating to the development, management or disposition of real estate of that department and makes recommendations to the department head regarding proposals for the department's real estate.

This presents two different interests, both of which must be measured against the standards of the Act:

- (1) Ownership and management of a private apartment, and
- (2) Being licensed as a broker and being permitted to use the term "Realtor."

Section 8 of the standards of conduct prohibits official action directly affecting a business in which the official has a substantial financial interest. We have interpreted this section to include the situation where an official's position requires him to take action which must affect his interests, and he cannot disqualify himself. [Opinion No. 2.]

Action taken by this official does not affect the real estate industry generally; it deals with the management of that department's real property. So long as his official action does not affect his apartment management and ownership interests, there is no conflict or violation of section 8. If at any future time he is required to take any official action which may directly affect these interests, he must resolve the conflict by disqualifying himself from that action or disposing of these interests.

The fact that this official is licensed as a broker and can use the title "Realtor" does not affect his ethical standing while, as he has stated, he is not conducting any real estate business, involved in any private real estate transactions, or associated with any brokerage concern. If his situation should change, a request for another opinion would be in order.

This opinion is based solely on the facts presented to the Commission by the employee as specifically set out above and does not govern any situation or action not presented to the Commission.

Dated: Honolulu, Hawaii, August 12, 1968.

STATE ETHICS COMMISSION
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