

OPINION NO. 119

On February 11, 1971, this Commission issued Opinion No. 98 wherein we held that a state employee would be in violation of HRS, §84-16(b) if he were to bid on a surplus remnant of state property offered for sale after public notice. This ruling was based upon our finding that the declaration of land as surplus property was influenced by his inspections and reports for the state agency by which he was employed.

He requested a reconsideration of this opinion on the ground that the Commission's finding was incorrect.

By interview of September 28, 1971, he informed this Commission that the decision to declare land as surplus property is made by employees in another section of his department and that this decision is totally independent of his state function. He has indicated that his supervisor also agreed that his work in no way influences the decision and determination of these persons who declare land as surplus property.

Under the circumstances, we found that he does not participate in the decision to declare land surplus property and in the disposition of such property, and that therefore, he would not be in violation of HRS, §84-16(b) if he were to bid on surplus state-owned property offered for sale after public notice.

He was advised, however, to be sensitive to occasions when he may have information which is not generally available to the public. If there are such instances, HRS, §84-12, prohibits the use of such information for his benefit or the benefit of others.

He was also advised to be sensitive to the fact that his state duties placed him in an advantageous position to utilize state time and equipment for examining real estate investments. While we had no reason to believe he had done this, we felt it was our obligation to call his attention to HRS, §84-13, which prohibits the utilization of such opportunities for his private benefit or the benefit of others.

We thanked him for his cooperation in assuring that the correct facts were brought to our attention.

Dated: Honolulu, Hawaii, October 4, 1971.

STATE ETHICS COMMISSION
Vernon F.L. Char, Acting Chairman
Gwendolyn B. Bailey, Commissioner
Walters K. Eli, Commissioner
Fred S. Ida, Commissioner

Note: The vacancy created by the resignation of James F. Morgan, Jr. had not been filled.