

OPINION NO. 198

A member of a state commission inquired whether he might participate on a petition of a certain company filed with his commission. The commission member informed us that his home was approximately 100 yards from property that was involved in the petition. He also indicated that the company filing the petition had been doing construction work adjacent to his property and that he had discovered structural damages to his home. He stated that he would probably pursue the matter of property damages with the company after his commission had acted on the petition.

HRS §84-13 (Supp. 1974) provides, in part, the following:

No ... employee shall use or attempt to use his official position to secure or grant unwarranted privileges, exemptions, advantages, contracts, or treatment, for himself or others

We said that this provision might be violated if under the circumstances of a case, a reasonable man could infer that a state employee was using or attempted to use his official position to obtain unwarranted treatment or advantages for himself.

The board member provided us with copies of letters that he had sent to the company in question. We said that by means of these letters, the commission member had put the company on notice that it might be liable to him for structural damages to his home. In this situation, it was our opinion that if he should now participate on the company's petition, he would violate HRS §84-13. Thus, we held that this statutory provision required the commission member to abstain from participating on the company's petition.

We expressed appreciation for the commission member's concern for ethics of public officials.

Dated: Honolulu, Hawaii, December 5, 1974.

STATE ETHICS COMMISSION
Gwendolyn B. Bailey, Chairman
Vernon F.L. Char, Vice Chairman
Audrey P. Bliss, Commissioner

Note: Commissioner Walters K. Eli was excused from the meeting at which this opinion was considered. There was one vacancy on the Commission.