

BEFORE THE BOARD OF ETHICS

COUNTY OF HAWAI'I

In the Matter of the Petition by

██████████

Petitioner.

PETITION NO. 2024-19

INFORMAL ADVISORY OPINION

Initial Review: December 11, 2024

INFORMAL ADVISORY OPINION

By Petition dated November 21, 2024, with the Hawai'i County Board of Ethics (hereinafter "the Board"), Petitioner ██████████ (hereinafter referred to as "Petitioner") who is employed as a ██████████ in the ██████████ of the County of Hawai'i ██████████ requested an Informal Advisory Opinion from the Board. Petitioner sought guidance as to whether Petitioner could participate in concurrent employment as a County employee and as a real estate agent.

At its duly noticed meeting on December 11, 2024, in a closed hearing, the Board reviewed and considered the above-captioned Petition pursuant to Rule 4 of the *Rules and Practice and Procedure of the Board of Ethics*. Petitioner identified he is employed fulltime by the ██████████. Petitioner explained the extent of his present duties at the ██████████. Petitioner explained that in his expected role as a Hawai'i real estate, he would not be required to interface with County entities, and would not utilize county resources. The Board received written and oral testimony from ██████████ the ██████████. ██████████ explained that employees of the ██████████ have access to multiple real property listing service records that not all of the public have access to and an employee within

the division could not be isolated from. Specifically, a [REDACTED] is required to utilize these records in performance of the position. [REDACTED] provided information to the Board that every person that interviews for a position at [REDACTED] is informed of the following on its job application:

If you are offered this position, do you understand that you will not be able to practice/perform real estate, appraisals, broker price opinions, property management, or other business activities that impact or may be impacted by [REDACTED] in the Hawaii county jurisdiction? Yes No

[REDACTED] explained that the [REDACTED] considers any active real estate license work withing the jurisdiction would present a bias and prevent the [REDACTED] County employee from executing their duties. [REDACTED], as [REDACTED] requested that the Board find that there would be a conflict of interest for any employee withing [REDACTED] to actively use a real estate license while so employed.

The Board, having deliberated and considered and giving appropriate weight to the testimony and evidence submitted by the Petitioner and the [REDACTED], and having considered the arguments presented, hereby renders the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

To the extent that any of these Findings of Fact are Conclusions of Law, they are to be so construed.

A. The Petition

1. Petitioner is employed as a [REDACTED] in the [REDACTED] [REDACTED] of the County of Hawai'i [REDACTED].
2. Petitioner's present duties as an employee of the [REDACTED] may not specifically overlap with the contemplated duties as a Hawai'i real estate agent or property manager.

3. However, as an employee of [REDACTED] Petitioner would have access to personal real property information that is not otherwise available to the general public, and that information could otherwise be advantageous to a person with a real estate license.

B. Board's Ruling

4. Based on the evidence and testimony presented, the Board finds that there is conflict of interest under Section 2-84 of the Hawai'i County Code of Ethics if the Petitioner were to obtain and actively use a real estate license while employed with the [REDACTED] [REDACTED] of the County of Hawai'i [REDACTED]

5. Board Member Christopher Ho moved that the Board find that there is conflict of interest under Section 2-84 of the Hawai'i County Code of Ethics if the Petitioner obtains a real estate license based on the access to personal information note available to the general public that would be advantageous to a person employed utilizing a real estate license

6. Board Member Paul "Scotty" Paiva seconded the motion. The motion passed 5-0.

CONCLUSION OF LAW


Based upon the evidence presented and the Board's review of the Hawai'i County Code of Ethics and the *Rules and Practice and Procedure of the Board of Ethics*, the Board finds and concludes that there would be a conflict of interest should the Petitioner obtain a real estate license, and actively use it for employment, while employed at the [REDACTED] of the County of Hawai'i [REDACTED]

ORDER

Pursuant to Board Rule 4.9, this Informal Advisory Opinion shall be filed and a copy shall be sent to the Petitioner.

Dated: Hilo, Hawai'i, Jan. 28th, 2025.

BOARD OF ETHICS, COUNTY OF HAWAI'I

By 
RACHEL SHORT
Chair

APPROVED AS TO FORM
AND LEGALITY:


SYLVIA A. WAN
Deputy Corporation Counsel

In the Matter of the Petition by DEREK FONDY, PETITION NO. 2024-19,
INFORMAL ADVISORY OPINION