

BEFORE THE NEIGHBORHOOD COMMISSION

CITY AND COUNTY OF HONOLULU

STATE OF HAWAII

In the Matter of

Brenda L. Mariano

Complainant,

v.

Maureen Andrade, Rachelle Lamosao and  
Connie Herolaga

Respondents.

COMPLAINT NO. 2018-06

FINDINGS OF FACT, CONCLUSIONS OF  
LAW, AND DECISION AND ORDER

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A complaint hearing was held at a Special Meeting of the Neighborhood Commission on October 22, 2018, at Kapalama Hale, First Floor Conference Room, 925 Dillingham Boulevard, Honolulu, Hawaii 96817. BRENDA L. MARIANO (“Complainant”) personally appeared at the hearing. Respondents MAUREEN ANDRADE, RACHELLE LAMOSAO and CONNIE HEROLAGA (collectively, “Respondents”) did not appear at the hearing.

The Commission, having reviewed the Complaint, Responses, exhibits and other documentary evidence presented by the parties; having considered the entire record and files herein; and having heard testimony and considered the arguments of the parties; makes the following Findings of Fact, Conclusions of Law, Decision and Order.

FINDINGS OF FACT

1. The Complaint was filed on or about June 17, 2018, pursuant to the provisions of Section 2-18-101(a)(3) of the 2008 Neighborhood Plan, as amended (“Plan”).

2. Complainant alleges a violation of the Plan under Sections 2-13-104, 2-13-105 and 2-14-116 that occurred on March 22, 2018.

3. At all times relevant herein, Respondents were members of the Waipahu Neighborhood Board No. 22.

4. On July 26, 2018, Respondents were notified of the Complaint and were provided the opportunity to respond to the allegations of the Complaint. The Commission received a response from Respondent Rachelle Lamosao on October 29, 2018 and Respondent Connie Herolaga on December 12, 2018.

5. On October 29, 2018, in accordance with Hawaii Revised Statutes (“HRS”) Sections 91-9 and 91-9.5, notice of the hearing was provided to the Respondents via certified mail, return receipt requested.

6. With respect to Section 2-13-104, Standards of Conduct, the Plan requires that:

(a) Board members, in the performance of their duties, shall demonstrate by their example the highest standards of ethical conduct, to the end that the public may justifiably have trust and confidence in the integrity of the neighborhood board system. Board members shall hold their offices or positions for the benefit of the public, shall recognize that the public's interest is their primary concern, and shall faithfully discharge the duties of their offices regardless of personal considerations.

(b) Board members shall not use their positions to secure or grant special consideration, treatment, advantage, privilege, or exemption to themselves or any person beyond that which is available to every other person.

(c) Board members are not officers or employees of the city by reason of their position. However, the standards of conduct policy shall apply to all board members.

7. With respect to Section 2-13-105, Conflicts of Interest, the Plan requires that:

(a) No board member shall:

(1) Solicit or accept any gift, directly or indirectly, whether in the form of money, loan, gratuity, favor, service, thing or promise, or in any other form, under circumstances in which it can reasonably be inferred that the gift is intended to influence the member in the performance of the member's

official duties. Nothing herein shall preclude the solicitation or acceptance of lawful contributions for election campaigns;

(2) Disclose confidential information gained by reason of the member's office or position, or use that information for the member's personal gain or benefit of anyone; or

(3) Engage in any business transaction or activity, or have a financial interest, direct or indirect, which is incompatible with the proper discharge of a member's official duties or which may tend to impair the independence of judgment in the performance of the member's official duties. When a condition exists which qualifies under this section, the member shall recuse themselves from any discussion or voting relating to the particular issue.

8. With respect to Section 2-14-116, Disclosure, the Plan requires that:

(a) Any board member who knows he or she has a personal or private interest, direct or indirect, in any proposal before the board shall disclose the interest either orally or in writing to the board. The disclosure shall also be made a matter of public record before the board takes any action on the proposal.

(b) A member who makes any disclosure shall not be disqualified from participation in the discussion or vote on the matter. A member may choose to be recused. A recused member shall not participate in the discussion or vote.

9. The Commission finds that the alleged violations by Respondents occurred after the March 22, 2018 Waipahu Neighborhood Board meeting.

10. There was a motion that was seconded to dismiss the Complaint. The Commission, with eight commissioners present, after considering all the evidence, finds that the Complainant did not meet her burden of proof of proving that the Respondents violated the Plan by a Preponderance of the Evidence. The Commission, by unanimous vote, adopted the motion to dismiss the Complaint.

### CONCLUSIONS OF LAW

1. The Recommendation was filed in accordance with Section 2-18-101(a)(4) of the Plan.
2. The parties were properly noticed pursuant to HRS Sections 91-9 and 91-9.5.
3. This hearing was properly conducted in accordance with HRS Chapter 91 and Section 2-18-103 of the Plan.
4. This matter is properly before the Commission pursuant to Section 2-18-103 of the Plan, and the Commission has the authority to review a Neighborhood Board and/or a Neighborhood Board Member's action(s) and issue sanctions in accordance with Sections 2-18-103 and 2-18-104 of the Plan.
5. Pursuant to HRS Section 91-10(5), the Complainant has the burden of proof, including the burden of producing evidence, as well as the burden of persuasion by a preponderance of the evidence.

### DECISION AND ORDER

Based on the foregoing, the Commission hereby finds that the Complainant did not meet her burden of proof of proving that the Respondents violated the Plan by a Preponderance of the Evidence.

Therefore, it is hereby ordered in accordance with Sections 2-18-101 and 2-18-103 of the 2008 Neighborhood Plan, as amended, that the Complaint is hereby dismissed as to Respondents Maureen Andrade, Rachelle Lamosao and Connie Herolaga, Members of the Waipahu

Neighborhood Board No. 22.

DATED: Honolulu, Hawaii, 5/20/2019.

NEIGHBORHOOD COMMISSION

By   
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TYLER DOS SANTOS-TAM  
Its Chair