

BEFORE THE NEIGHBORHOOD COMMISSION

CITY AND COUNTY OF HONOLULU

STATE OF HAWAII

In the Matter of

Keith Major

Complainant,

v.

Ken LeVasseur

Respondent.

COMPLAINT NO. 2018-01

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. KEITH MAJOR (“Complainant”) personally appeared. Respondent KEN LEVASSEUR (“Respondent”) personally appeared.

The Commission, having reviewed the Complaint, Response, 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 May 15, 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 Section 2-14-117 that occurred on May 9, 2018.

3. At all times relevant herein, Respondent was a member of the Kahaluu Neighborhood Board No. 29.

4. On May 29, 2018, Respondent was notified of the Complaint and was provided the opportunity to respond to the allegations of the Complaint. The Commission received a response from Respondent on June 29, 2018.

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

6. With respect to Subsections (a) and (b) of Section 2-14-117, Order and Decorum, the Plan requires that:

(a) All board members shall promote and preserve the order and decorum of the board’s proceedings.

(b) The presiding officer of the board or a majority of the board may expel any individual whose conduct at the board meeting is disruptive, disorderly, contemptuous, or improper for the conduct of business at the board meeting.

7. The Commission finds that the chair of the Kahaluu Neighborhood Board No. 29 expelled Respondent from the meeting for disruptive behavior after providing three audible warnings to Respondent.

8. The Commission finds that after being expelled, Respondent returned to the meeting without permission, voted, and made further disruptions at the meeting.

9. The Commission finds that Respondent’s conduct at the meeting was disruptive and disorderly, breaking the order and decorum of the meeting.

10. With respect to Subsections (a) and (b) of Section 2-14-117, Order and Decorum, there was a motion that was seconded to sustain the Complaint. The Commission, with six

commissioners present, having viewed part of the videos of the May 9, 2018 Kahaluu Neighborhood Board No. 29 meeting, and heard the arguments of the Complainant and Respondent, after considering all the evidence, finds that the Complainant met his burden of proof of proving that the Respondent violated the Plan by a Preponderance of the Evidence. The Commission, by unanimous vote, adopted the motion to sustain 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 on May 9, 2018, Respondent Ken LeVasseur did violate Section 2-14-117 of the 2008 Neighborhood Plan, as amended, as alleged in Complaint 2018-01.

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 sustained as to Respondent Ken LeVasseur, Member of the Kahaluu Neighborhood Board No. 29.

DATED: Honolulu, Hawaii, March 29, 2019.

NEIGHBORHOOD COMMISSION

By   
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TYLER DOS SANTOS-TAM  
Its Chair