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BEFORE THE NEIGHBORHOOD COMMISSION
CITY AND COUNTY OF HONOLULU

In the Matter of the)
Complaint of)
DEBBI GLANSTEIN,)
Complainant,)
Against CHARLES PRENTISS, Member of)
Kailua Neighborhood Board No. 31,)
Respondent.)
_____)

Complaint #0908-31-07
FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND DECISION AND ORDER

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AND DECISION AND ORDER

This Complaint came on for hearing at a Special Meeting of the Neighborhood Commission held on August 23, 2010, at 7:00 p.m., in Honolulu Hale, Council Committee Room, 2nd Floor, City and County of Honolulu, 530 South King Street, Honolulu, Hawaii 96813.

Complainant DEBBI GLANSTEIN ("Complainant"), *pro se*, appeared on her own behalf. Respondent CHARLES PRENTISS ("Respondent"), *pro se*, appeared on his own behalf. Linda Ure ("Ure") testified on behalf of Complainant.

The Complaint, the Response, and all exhibits provided by the parties were made a part of the record without objection.

Complainant alleged in her August 24, 2009 complaint that Respondent violated Sections 2-14-101, 2-14-123(b)(7) and (8) of the 2008 Neighborhood Plan ("the Plan") by administering the oath of office to a newly elected Board member.

The Commission heard the testimony presented by the parties and witnesses and reviewed the exhibits and other papers submitted, discussed the matter, finds as follows:

FINDINGS OF FACT

1. The Complaint was filed on August 24, 2009, pursuant to the provisions of Section 2-18-201(a)(3) of the Plan.
2. At all times relevant herein, Complainant was a member of Kailua Neighborhood Board No. 31.
3. At all times relevant herein, Respondent was the Board Chair.
4. On September 7, 2009, the Respondent requested for an extension of time to respond to the complaint. The extension was granted. Thereafter, the Respondent filed a timely response to the Complaint on November 6, 2009.
5. Section 2-14-101 of the Plan states that each elected and appointed member must subscribe to an oath of office prior to entering upon the duties of their office.
6. Section 2-14-123 (b)(7) of the Plan requires the Board chair to make known any standing or special rule of order when necessary or so requested.
7. Section 2-14-123(b)(8) of the Plan requires the Board chair to make known any rule of the neighborhood board system when necessary or requested.
8. On August 5, 2010, in accordance with Hawaii Revised Statutes ("HRS") Sections 91-9 and 91-9.5, notice of the hearing was provided to the parties via certified mail, return receipt requested.
9. On July 14, 2009, the Kailua Neighborhood Board held a special meeting.
10. Prior to the start of the meeting, Complainant told newly elected Board member Donna Wong ("Wong") that she had not yet taken the oath of office.

11. Respondent felt that tension had been created by Complainant's statement and the manner in which she said it. In order to relieve the tension, Respondent jokingly offered to administer the oath of office to Wong. He had her raise her right hand and repeat the oath after him. He stated that he was duly qualified to administer the oath because of his previous service as an air force officer.

12. Some Board members objected to the administering of the oath.

13. However, while Respondent administered the oath, he and other Board members were laughing.

14. Wong remained at the special meeting when it started.

15. Complainant alleges that Wong participated in the meeting and cast a vote on various matters during the meeting.

16. Wong was later administered the oath of office by a duly authorized member of the Neighborhood Commission Office.

17. Respondent admits that he is not authorized to administer the oath of office.

CONCLUSIONS OF LAW

1. The Complaint was filed in accordance with the provisions of Section 2-18-201 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 2-18-203 of the Plan.

4. This matter is properly before the Commission pursuant to Section 2-18-203 of the Plan and the Commission has the authority to review a Board and/or Board member's action(s) and issue sanctions in accordance with Sections 2-18-203 and 2-18-204 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.

6. The Commission finds that Respondent did not violate section 2-14-101 of the Plan, as no evidence was presented that Respondent failed to take the required oath of office and the evidence demonstrates that his "administration" of the oath of office was done as a joke and to defuse an otherwise tense situation.

7. Complainant has not provided sufficient information to support her contention that Wong actively participated in the special meeting as a member of the Board. However, the Commission notes that if Wong had participated in the meeting, it would have been inappropriate since she was not properly sworn-in.

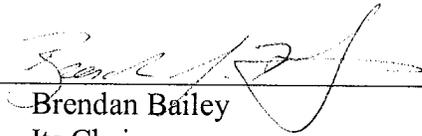
8. With respect to Section 2-14-123(b)(7) and (8), the Commission finds that the Complainant has not provided sufficient evidence to demonstrate that the Respondent failed to make known any standing or special rule of order or any rule of the neighborhood board system when necessary or requested. Thus, the Commission finds that Respondent did not violate Section 2-14-123(b)(7) and (8) of the Plan.

DECISION AND ORDER

Based upon the foregoing, the Complaint filed by DEBBI GLANSTEIN, on August 24, 2009, is hereby DENIED.

DATED: Honolulu, Hawaii, SEP 07 2010.

NEIGHBORHOOD COMMISSION

By 
Brendan Bailey
Its Chair

09-07214/143375