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NEIGHBORHOOD COMMISSION
CITY AND COUNTY OF HONOLULU
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BEFORE THE NEIGHBORHOOD COMMISSION
CITY AND COUNTY OF HONOLULU

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

Complaint #0908-31-09
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 LINDA URE ("Complainant"), *pro se*, appeared on her own behalf. Respondent CHARLES PRENTISS ("Respondent"), *pro se*, appeared on his own behalf. Debbi Glanstein ("Glanstein") 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 2-14-111(c), 2-14-123, and 2-14-124 of the 2008 Neighborhood Plan ("the Plan") by not attending a duly noticed meeting of the Board's executive committee, by not providing a draft

agenda for the executive committee members to review, and by unilaterally cancelling the meeting.

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 2-14-111 of the Plan requires that a Board give written public notice of all meetings and places the responsibility to prepare an agenda and meeting notice upon the Board chair.
6. Section 2-14-123 of the Plan specifies the duties of a Board chair including the preparation of the agenda for a board meeting.
7. Section 2-14-124 of the Plan specifies the duties of Board committees including the requirement of preparing notices, agendas and minutes for committee meetings.
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. The Kailua Neighborhood Board's executive committee scheduled a meeting for July 28, 2009.

10. The meeting was properly noticed in accordance with requirements of the sunshine law.

11. The Board's executive committee is made up of the four Board officers and included Respondent as the Board chair and Complainant as the Board secretary.

12. Respondent did not attend the executive committee meeting.

13. Two other committee members did not attend the committee meeting. Only Complainant appeared for the meeting. Thus, the committee lacked a quorum to proceed.

14. At no time did Respondent cancel the committee meeting.

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 2-14-111 of the Plan. The committee meeting was properly noticed and Respondent did not cancel the meeting. Instead, like two other committee members, he did not attend.

7. The Commission further finds that Respondent did not violate Section 2-14-123 of the Plan. As chair of the Board, Respondent has the authority and responsibility to prepare the agenda for board meetings and is not required to provide a "draft" agenda to an "executive committee" nor does he have to submit the agenda for review by the executive committee prior to submitting it to the city clerk's office for filing.

8. With respect to Section 2-14-124 of the Plan, the Commission finds that Complainant has failed to provide sufficient evidence to support her claim. As previously noted, Respondent did not cancel the committee meeting. He, like the two other committee members, simply failed to attend it. Thus, the Commission finds that Respondent did not violate Section 2-14-124 of the Plan.

9. The Commission finds that when the sections are read in conjunction, it is apparent that a person can be an elected "board member" yet not assume the duties of office until the oath is taken.

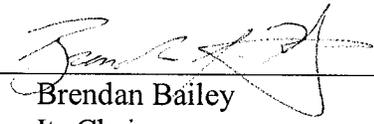
10. The Commission further finds that in the instant case, Wong was a duly elected Board member at the time of her appointment as committee chair and therefore the appointment was appropriate. The Complainant has not provided sufficient evidence to demonstrate otherwise. Thus, the Commission finds that Respondent did not violate Section 2-14-124 of the Plan.

DECISION AND ORDER

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

DATED: Honolulu, Hawaii, SEP 07 2010.

NEIGHBORHOOD COMMISSION

By 
Brendan Bailey
Its Chair

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