



Violation of section 2-14-117 for displaying inappropriate behavior when Respondent “argued with the Chair to talk about a member he nominated who declined the nomination even though the election for chair was unopposed.” Respondent’s “comment about why though Mr. Troy Cullen declined, he need to take the nomination.”

The Commission heard the testimony presented by the parties and witnesses, reviewed the videotape recording of the July 22, 2009 meeting as well as the documents and other papers submitted, discussed the matter, and with the advice of counsel, finds as follows:

#### FINDINGS OF FACT

1. The Complaint was filed on August 25, 2009, pursuant to the provisions of Section 2-18-201 (a)(3) of the 2008 Neighborhood Plan.
2. At all times relevant herein, Complainant Jackie Zahn was a resident of the City and County of Honolulu, and resided within the boundaries of the Makakilo/Kapolei/Honokai Hale Neighborhood Board #34.
3. At all times relevant herein, Respondent Kioni Dudley was a member of the Board.
4. Section 2-14-117 of the 2008 Neighborhood Plan requires all neighborhood board members to promote and preserve the order and decorum of a board’s proceedings.
5. On March 18, 2010, in accordance with HRS sections 91-9 and 91-9.5, notice of the hearing was provided to the parties via certified mail, return-receipt requested.
6. At the July 22, 2009 meeting, during the Election of the Board Chair agenda item, Timson recognized Dudley to speak and stated “nomination only and speeches after.”
12. Dudley then nominated Troy Cullen (“Cullen”) for Board chair and specifically reserved the right to make a speech after.
13. Cullen declined the nomination and nominated Timson instead.

14. Timson then asked for other nominations and recognized Dudley to speak.

15. Dudley stated that he had nominated Cullen and noted that he reserved the right to speak.

16. Timson stated that Cullen had declined the nomination.

17. Dudley then stated that Cullen's declining the nomination did not negate his right to make a nomination speech.

18. Timson then stated that once the nominations are done, Dudley could do his speech. Timson then asked for further nominations and not receiving any, Timson told Dudley that he could "go ahead and say what you want to say..."

19. Dudley then made his nominating speech. In his speech, he stated, "I think the community is looking for new, bold leadership and I think they think of him as a leader. They gave him the most votes. I think the community wants a functioning board, one that will take on the problems that affect the community. Major Cullen may shy away from this as too self-serving, but in actuality, it would be serving the community. He might see it as turning on those who supported his candidacy, but in actuality he got two hundred more votes..."

20. The timer then went off and Timson cut off Dudley by saying "Time's up."

21. At which point, Dudley stated that Board Organization does not have time limits and paused for a response from Timson. When he got no response, he repeated the statement that Board Organization does not have time limits and then stated that he would continue.

22. Timson then replied that there are time limits and if Dudley read the agenda which had been the rules of speaking for a number of years. She then instructed Dudley to "go ahead and wrap up" so they could move on.

23. Dudley thanked the chair and then continued with "He might see it as turning on those who supported his candidacy, but in actuality he got two hundred more votes than those

who did support him who are now on the board. He needs to look to the wishes of those 200 constituents, those 200 community members who also voted for him. The Community would be very disappointed if this natural leader who can take the Board to new heights instead chose to become a follower perpetuating a dysfunctional leader in the most dysfunctional board on the island. Thank you.”

### CONCLUSIONS OF LAW

1. The Complaint was timely filed pursuant to the provisions of section 2-18-201 of the 2008 Neighborhood Plan (“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 Hawaii Revised Statutes (“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 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. With respect to the allegation regarding the nominating speech for Cullen, the Commission finds that Dudley did not violate section 2-14-117 of the Plan when he made his nominating speech after Cullen declined the nomination. Although the Chair was correct that once the nomination was declined, the nominating speech should not have been allowed, the Chair expressly permitted Dudley to make his nominating speech and acknowledged and

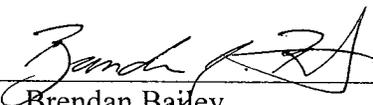
recognized him to speak. Dudley's speech stated his opinion about the state of the Board and was not disruptive, disorderly, rude or otherwise inappropriate.

DECISION AND ORDER

Based upon the foregoing, the Complaint filed by JACKIE ZAHN, on August 25, 2009, is hereby DENIED.

DATED: Honolulu, Hawaii, APR 20 2010.

NEIGHBORHOOD COMMISSION

By \_\_\_\_\_  
Brendan Bailey  
Its Chair

FOF

