

BEFORE THE NEIGHBORHOOD COMMISSION

CITY AND COUNTY OF HONOLULU

STATE OF HAWAII

In the Matter of
William Unruh
Complainant
v.

Milton D. Ragsdale,
Respondent.

) COMPLAINT NO. 2013-01

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

I certify that this is a full, true and correct
copy of the original document on file with
The Neighborhood Commission Office,
City and County of Honolulu.

Nicole A. Velasco
Signature

9/13/13
Date

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

A complaint hearing was held at a Special Meeting of the Neighborhood Commission on May 15, 2013, at 6:41 p.m., in Honolulu Hale, Council Committee Room, 530 South King Street, 2nd Floor, Honolulu, Hawaii 96813. William Unruh (Complainant) appeared on behalf of himself, Milton D. Ragsdale (Respondent) appeared and represented himself.

The Commission, having reviewed the Recommendation, witnesses, 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 February 20, 2013, pursuant to the provisions of Section 2-18-201(a)(3) of the 2008 Neighborhood Plan, as amended ("Plan").

2. On February 6, 2013, at a Regular Meeting of the Manoa Neighborhood Board (Board No. 7), the complainant alleges a violation of the neighborhood plan under Section 2-13-104.

3. At all times relevant herein, Respondent was a member of the Neighborhood Board No. 7.

4. On February 21, 2013, Respondent was notified of the Complaint and provided an opportunity to respond to the allegation contained in the Complaint. The Commission received a response from Respondent Ragsdale April 4, 2013.

5. On May 1, 2013, 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. The Complaint alleges that on the date set forth in paragraph 2 of this Findings of Fact, the Respondent violated the following sections of the Plan: 2-13-104.

7. Section 2-13-104 (a) of the Plan requires that board members 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.

8. Section 2-13-104(b) of the Plan requires that board members shall not used 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.

9. The complaint contained two (2) specific allegations that occurred at the Neighborhood Board No. 7 Meeting on February 6, 2013: (1) Respondent Ragsdale failed to maintain order and decorum in violation of the Plan under section 2-13-104 (a). (2) Respondent Ragsdale advanced his own personal interest regarding an issue before the Manoa Neighborhood Board (Board No. 7) in violation of the Plan under section 2-13-104(b).

10. Witness, Keith Johnston, testified on behalf of Complainant on what he witnessed the night of February 6, 2013.

11. Exhibit No. 2, a Written Statement from Clara Priester was Accepted into Evidence.

12. Exhibit No. 3, a Written Statement from Lorrie Unruh was Accepted into Evidence.

13. Exhibit No. 4, a Written Statement from Eric Eads was Accepted into Evidence.

14. Exhibit No. 5, a Written Statement from Ingrid Friedberg was Accepted into Evidence.

15. Exhibit No. 6, a Written Statement from Keith Johnston was Accepted into Evidence.

16. Exhibit No. 7, a Written Statement from Andrew Kim was Accepted into Evidence.

17. Exhibit No. 8, Olelo Video Recording was Accepted into Evidence. The Commission took Judicial notice of the video recording of the Manoa Neighborhood Board No. 7 meeting Dated Wednesday, February 6, 2013, which was viewed in Executive Session immediately following the hearing.

18. Exhibit 1 was deemed irrelevant and was not admitted.

19. Exhibits 9 through 17 were deemed irrelevant and were not admitted.
20. Complainant testified as to the claims in this Complaint and made closing statements.
21. Respondent made closing statements
22. With respect to allegation 1, the Commission, having heard the arguments of the Complainant and Respondent, considering all the evidence, finds that the Complainant sustained his burden of proof by proving that Respondent Ragsdale violated the Plan under Section 2-13-104 (a) by a Preponderance of the Evidence.
23. With respect to allegation 2, the Commission having heard the arguments of the Complainant and Respondent, considering all the evidence, finds that the Complainant has not met his burden of proof of proving that Respondent Ragsdale violated the Plan under Section 2-13-104 (b) by a Preponderance of the Evidence and this allegation is dismissed.

CONCLUSIONS OF LAW

1. The Recommendation was filed in accordance with the provisions of Section 2-18-101(a)(1) 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 2-18-102 of the Plan.
4. This matter is properly before the Commission pursuant to Section 2-18-102 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 2-18-102 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 upon the foregoing, the Commission hereby finds that the Complainant, William Unruh, has established, by a preponderance of the evidence allegation one (1) contained in Complaint No. 2013-01. Complainant, William Unruh, has failed to establish, by a preponderance of the evidence allegation two (2) contained in Complaint No. 2013-01.

Therefore, it is hereby ordered in accordance with Section 2-18-104(b) of the 2008 Neighborhood Plan, as amended, that the Complaint is Sustained as to allegation one (1) and the Commission issues a Written Letter of Reprimand to Milton D. Ragsdale for violating the Plan under Section 2-13-104(a).

It is Further Ordered, in accordance with Section 2-18-101 (b) of the 2008 Neighborhood Plan, as amended, that the Complaint, as to allegation two (2) is Dismissed as to Respondent Ragsdale.

DATED: Honolulu, Hawaii, September 13, 2013.

NEIGHBORHOOD COMMISSION

By Sylvia Young
SYLVIA YOUNG
Its Chair