

BEFORE THE NEIGHBORHOOD COMMISSION

CITY AND COUNTY OF HONOLULU

STATE OF HAWAII

In the Matter of Marvin Iseke )

Complainant, )

v. )

Koolauloa Neighborhood Board )  
No. 28, )

Respondent. )  
\_\_\_\_\_ )

COMPLAINT NO. 2013-03

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, State of Hawaii.

*Bayan K. Min*

Authorized NCO Representative

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

*9/24/2014*

Date

A complaint hearing was held at a Special Meeting of the Neighborhood Commission ("Commission") on February 24, 2014, at 6:35 p.m., in Honolulu Hale, Council Committee Room, 530 South King Street, 2nd Floor, Honolulu, Hawaii 96813. Complainant Marvin Iseke, appeared and testified on behalf of himself, Board Chair, Verla Moore represented and testified on behalf of the Koolauloa Neighborhood Board No. 28 ("Respondent"). Kela Miller, Larry Nihipali, and Hans Taala also testified on behalf of the Respondent Board.

The Complainant alleged that at the October 10, 2013 meeting of the Board, Verla Moore, Kela Miller, Hans Taala,

Kerry Moeai, Larry Nihipali, Norman Thompson and Gay Lolofie ("Board Members) were members of the Church of Latter Day Saints or Mormons and would block votes; that none of these board members would advocate for the citizenry; that Verla Moore, Kela Miller and Larry Nihipali had a secret meeting at the fire station; the Neighborhood Board members did not read the Environmental Assessment 2009 report; that the fire station is currently in a good place and does not need to be relocated and should just be fixed.

The Commission, reviewed the 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 November 22, 2013, pursuant to the provisions of Section 2-18-101(a)(3) of the 2008 Neighborhood Plan, as amended ("Plan").

2. The Complainant alleges that at the October 10, 2013 meeting, a presentation was made regarding the Honolulu Fire Department's ("HFD") proposed project for the relocation of the fire station in Hauula. Upon completion of the presentation, Respondent and Board and a majority of the Board members voted

to support HFD's proposed project. The Complainant now alleges that Respondent and Board violated Sections 2-13-101 Purpose; 2-13-102 General powers, duties, and functions of the boards; 2-13-104 Standards of conduct; 2-13-107 Representative capacity of board members; 2-13-106 Community forum limitations; 2-14-101 Oath of office; 2-14-124 Committees; and 2-14-125 Appointment of delegates, of the Neighborhood Plan.

3. At all times relevant herein, Board Members were members of the Respondent.

4. On December 2, 2013, Respondent was notified of the Complaint and provided an opportunity to respond to the allegations contained in the Complaint. The Commission received a response from Respondent, and at which time, Verla Moore was appointed to represent the Respondent and other Board Members at the complaint hearing.

5. On February 4, 2014, in accordance with Hawaii Revised Statutes ("HRS") Sections 91-9 Contested cases; notice; hearing; records and 91-9.5 Notification of hearing; service, notice of the hearing was provided to the Respondent via certified mail, return receipt requested.

6. Complainant did not receive the notice of hearing due to an incorrect address that was printed on the original Complaint. Complainant was contacted via telephone on Thursday,

February 20, 2014 and notified of the contested hearing date. On February 24, 2014, at the hearing, Commission Chair Sylvia Young asked Complainant if he wished to waive the notice requirement pursuant to HRS Sections 91-9 and 91-9.5 and proceed today, or if he would like to continue to another day. Complainant responded that he wished to proceed and waived the notice requirement.

7. The Commission finds that the HFD's proposed Hauula Fire Station project was properly placed and noticed on the October 10, 2013 agenda.

8. The Commission finds that the Respondent and Board permitted all persons present including Complainant to speak on HFD's proposed Hauula Fire Station.

9. The Commission finds that Complainant has failed to present evidence to support his allegations that the Respondent and Board did not have sufficient knowledge of the HFD's proposed project or the community's interest to take a vote on the matter at the October 10, 2013 meeting.

10. The Commission finds that Complainant has failed to present evidence to support his allegations that there was an improper meeting at the HFD fire station.

11. Section 2-13-101 Purpose. This is an enabling and general purpose section of the Plan.

12. Section 2-13-102 General powers, duties, and functions of the boards. This is an enabling and general function section of the Plan regarding the establishment of the neighborhood board system.

13. Section 2-13-104 Standards of Conduct requires any board member to conduct themselves to the highest standards of ethical conduct and shall not use their position to secure or grant special consideration, treatment, advantage, privilege, or exemption to themselves or any person.

14. Section 2-13-107 Representative capacity of board members is an enabling and general function section of the Plan that requires that each member represent the entire district. Discussion and consideration of public affairs shall avoid private matters or matters under litigation unless it involves policies, processes, or decision-making of government. Boards may reasonably engage in activities that recognize and celebrate the participation, contributions, and accomplishments of persons, agencies and community organizations in the life of that neighborhood area or the community at large.

15. Section 2-13-106 Community forum limitations is an enabling and general purpose section of the Plan to ensure the open forum of the neighborhood board system and to increase and assure effective community participation.

16. Section 2-14-101 Oath of Office is an enabling and general purpose section of the Plan, which is the oath of office each newly elected or appointed board member must swear or affirm to prior to assuming the duties of office, participate in the election of officers, or otherwise conduct board business until they subscribe to the required oath or affirmation of office.

17. Section 2-14-124 Committees allows the board to establish committees, the responsibilities of committees, the manner in which committees may conduct business, and in what manner committees are to report back to the board.

18. Section 2-14-125 Appointment of delegates allows the board to appoint delegates from among its membership and the public to attend meetings, gather information and then report back to the board.

19. With respect to allegations 1, 2, and 3, of the Complaint, the Commission, having heard the arguments of the Complainant and Respondent, considering all the evidence, finds that the Complainant failed to meet his burden of proof of proving that Respondent Koolauloa Neighborhood Board No. 28 violated the Plan by a Preponderance of the Evidence.

20. The Commission further finds that the issues regarding Envision Laie, the Hauula Fire Station, and the religious

backgrounds of duly elected board members brought up during the hearing, although deemed important to the Complainant, are not violations of the Plan.

#### 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 Respondent was properly noticed pursuant to HRS Sections 91-9 and 91-9.5 and the Complainant waived notice.
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.

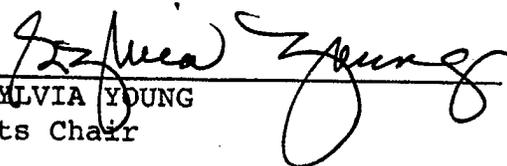
DECISION AND ORDER

Based upon the foregoing, the Commission hereby finds that on October 10, 2013, the Respondent Koolauloa Neighborhood Board No. 28 and Board Members did not violate any provision of the Neighborhood Plan as alleged in Complaint No. 2012-03.

Therefore, it is hereby ordered in accordance with Section 2-18-101(b) of the 2008 Neighborhood Plan, as amended, that the Complaint is hereby denied and dismissed as to Respondent Koolauloa Neighborhood Board No. 28 and Board Members.

DATED: Honolulu, Hawaii, September 22, 2014.

NEIGHBORHOOD COMMISSION

By   
SYLVIA YOUNG  
Its Chair