

BEFORE THE NEIGHBORHOOD COMMISSION

CITY AND COUNTY OF HONOLULU

STATE OF HAWAII

In the Matter of Lea Minton  
Complainant,

v.

Kela Miller, Verla Moore,  
Gaylene Lolofie, Norman F.  
Thompson III, Kerry S. Moeai,  
Members of Ko'olauloa  
Neighborhood Board No. 28,

Respondents.

) COMPLAINT NO. 2014-02

)  
) 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.

)  
) Boyan K Meri  
) Authorized NCO Representative

)  
) 9/24/2014  
) Date

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

A complaint hearing was held at a Special Meeting of the Neighborhood Commission ("Commission") on May 28, 2014 at 8:06 p.m., in Honolulu Hale, Council Committee Room, 530 South King Street, 2nd Floor, Honolulu, Hawaii 96813. Complainant Lea Minton appeared and testified on behalf of herself. Respondents Kela Miller, Verla Moore, Gaylene Lolofie, Norman F. Thompson III, and Kerry S. Moeai, Members of Ko'olauloa Neighborhood Board, No. 28, appeared and testified on behalf of themselves.

The Complainant alleged that at the December 9, 2013 Ko'olauloa Neighborhood Board No. 28 meeting ("December 9, 2013 meeting"), Kela Miller, Verla Moore, Gaylene Lolofie, Norman F. Thompson III and Kerry S. Moeai, ("Board", "Board Members" or "Respondents") had rejected testimony that people were submitting regarding the proposed Resolution under consideration that evening; that Verla Moore, Board Member, did not disclose that she was a Public Relations and Economic Development Committee Member of the Laie Community Association; that Gaylene Lolofie, Board Member, did not disclose that she is the owner of Dream Navigator LLC and General Manager of Island Transport LLC; that Norman F. Thompson III, Board Member, did not disclose that he is employed by the La'ie Community Association President and Local 3 District Representative Pane Meatoga; and Kerry S. Moeai, Board Member, did not disclose that he works for Gaylene Lolofie; The Department of Planning and Permitting was supposed to submit more information to the City Council, however, only some of the information regarding Bill 47 was given and the Board did not take that into consideration; since the passage of Bill 47, sustainability of the community is at risk and the Board is not taking that into consideration; tourism is projected to double in 2017 and the Board is not taking that into consideration regarding the Resolution; that

there is no reliable traffic court in the area; and the minutes of the December 9, 2013 meeting are not accurate. Complainant admitted that she did not attend the December 9, 2013 meeting. Gaylene Lolofie, Board Member, submitted documentation that she was off-island on December 9, 2013 and was not present at the meeting and did not participate or vote.

The Complainant alleges that Respondents violated Sections 2-14-101 Oath of Office; 2-14-102 Board Term; 2-14-111 Meeting notice and agenda; 2-14-113 Meeting minutes; and 2-14-116 Disclosure, of the 2008 Neighborhood Plan, as amended.

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 January 21, 2014, pursuant to the provisions of Section 2-18-101(a)(3) of the 2008 Neighborhood Plan, as amended ("Plan").

2. On January 24, 2014, Respondents were notified of the Complaint and provided an opportunity to respond to the allegations contained in the Complaint. The Commission received a response from Respondents denying the allegations.

3. On April 14, 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 Respondents via certified mail, return receipt requested.

4. At all times relevant herein, Respondents were members of Ko'olauloa Neighborhood Board No. 28.

5. The Commission finds that Respondents and Board Members made disclosures of any potential conflicts of interest prior to a vote take on December 9, 2013, per review of the Board minutes.

6. The Commission finds that the December 9, 2013 meeting was properly noticed, agendaed and contained a proposed resolution to support Envision La'ie and Ko'olauloa Sustainable Communities Plan.

7. The Commission finds that written testimony was accepted until midnight on December 9, 2013 and every person who wanted to testify on the proposed resolution was given two minutes to speak. No one was turned away or cut short.

8. The Commission finds that upon completion of the testimony, Respondents and a majority of the Board Members voted to support the proposed resolution.

9. The Commission finds that Gaylene Lolofie, Board Member, was not present at the December 9, 2013 meeting, nor did she vote at the meeting as she was off-island.

10. The Commission finds that Complainant has failed to present evidence to support her allegations that the Respondents did not have sufficient knowledge of the Resolution or the community's interest to take a vote on the matter at the December 9, 2013 meeting.

11. Section 2-14-101 Oath of Office. Complainant withdrew this allegation.

12. Section 2-14-102 Board term. This is an enabling and general function section of the Plan regarding the establishment of the neighborhood board system.

13. Section 2-14-111 Meeting notice and agenda requires any board to give public notice of any and all regular, special, or anticipated executive meetings. The Notice shall state the day, date, time, and place of the meeting, and include an agenda which lists all of the items to be considered. In the case of an anticipated executive meeting, the purpose shall be stated on the agenda.

14. Section 2-14-113 Meeting minutes. A board shall keep written minutes of all meetings. Unless otherwise required by law, neither a full transcript nor a recording of the meeting is

required, but the written minutes shall give a true reflection of the matters discussed at the meeting and the views expressed by the members and participants.

15. Section 2-14-116 Disclosure. (a) Any board member who knows he or she has a personal or private interest, direct or indirect, in any proposal before the board shall disclose the interest either orally or in writing to the board. The disclosure shall also be made a matter of public record before the board takes any action on the proposal. (b) A member who makes any disclosure shall not be disqualified from participation in the discussion or vote on the matter. A member may choose to be recused. A recused member shall not participate in the discussion or vote.

16. With respect to Section 2-14-101 Oath of Office, Complainant withdrew this allegation at the hearing and the Commission dismisses such.

17. With respect to Section 2-14-102 Board term, this is an enabling and general function section of the Plan and not a violation, and the Commissions dismisses such.

18. With respect to Sections 2-14-111 Meeting, notice and agenda, 2-14-113, Meeting minutes and 2-14-116 Disclosure, of the Complaint, the Commission, having heard the arguments of the Complainant and Respondents, considering all the evidence, finds

that the Complainant failed to meet her burden of proof of proving that Respondents violated the Plan by a Preponderance of the Evidence.

19. The Commission further finds that the admission of Kerry S. Moeai, Board Member, that he had just started working part-time on some weekends as a driver for Gaylene Lolofie, Board Member, is not a violation of the Plan, however, the Commission cautions the Board to be mindful of potential conflicts of interest prior to taking any votes on any matters.

#### CONCLUSIONS OF LAW

1. The Recommendation was filed in accordance with the provisions of Section 2-18-101(a)(1) of the Plan.

2. This hearing was properly conducted in accordance with HRS Chapter 91 and Section 2-18-102 of the Plan.

3. 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.

4. 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.

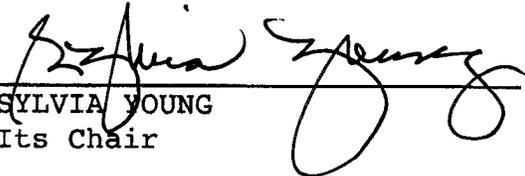
DECISION AND ORDER

Based upon the foregoing, the Commission hereby finds that on December 9, 2013, the Respondents Kela Miller, Verla Moore, Gaylene Lolofie, Norman F. Thompson III, and Kerry S. Moeai, Members of Ko'olauloa Neighborhood Board No. 28, did not violate any provision of the 2008 Neighborhood Plan, as amended, as alleged in Complaint No. 2014-02.

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 Respondents Kela Miller, Verla Moore, Gaylene Lolofie, Norman F. Thompson III, and Kerry S. Moeai, Members of Ko'olauloa Neighborhood Board No. 28.

DATED: Honolulu, Hawaii, September 22, 2014.

NEIGHBORHOOD COMMISSION

By   
SYLVIA YOUNG  
Its Chair