



and then was disruptive, pulling the Board Chair away from the meeting for no apparent reason; that he raises topics that have little or no relevance and unnecessarily prolongs topics on the agenda or raises irrelevant topics that are of little to no relevance to Kalihi Valley citizen community interest.

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, and Decision and Order.

#### FINDINGS OF FACT

1. The Complaint was filed on February 20, 2014, 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 February 12, 2014 meeting, Respondent disrupted the Neighborhood Board Meeting; raised irrelevant topics and called wasteful motions to the table. The Complainant alleges that Respondent violated Sections 2-13-104 Standards of conduct; 2-14-117 Order and decorum; and 2-14-118 Discussion, of the Plan.

3. At all times relevant herein, Respondent was a member of the Kalihi Valley Neighborhood Board No. 16.

4. On March 3, 2014, 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 on March 4, 2014 denying all allegations.

5. On May 15, 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. The Commission finds that the topics Respondent raised during the Community Concerns portion of the Agenda were proper.

7. The Commission finds that the Respondent was late to the meeting and proceeded to walk behind the Board Chair and Vice Chair and later pulled the Board Chair aside to have a conversation while the board meeting was still in progress and was disruptive.

8. The Commission finds that Complainant has present evidence to support his allegations that the Respondent has violated Section 2-14-117 Order and Decorum, of the Plan.

9. 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.

10. Section 2-14-117 Order and decorum (a) All board members shall promote and preserve the order and decorum of the board's proceedings.

11. Section 2-14-118 Discussion When a board member or person properly before the board wishes to speak, the member or person shall address the chair, be recognized before proceeding, and shall confine remarks to the subject under discussion, avoiding personalities and abusive language.

12. With respect to Sections 2-13-104 and 2-14-118, the Commission, having heard the arguments of the Complainant and Respondent, hearing the witnesses, considering all the evidence, finds that the Complainant failed to meet his burden of proof of proving that Respondent violated the Plan by a Preponderance of the Evidence.

13. With respect to Section 2-14-117, the Commission, having heard the arguments of the Complainant and Respondent, hearing the witnesses, considering all the evidence, finds that the Complainant has met his burden of proof of proving that Respondent violated the Plan by a Preponderance of the Evidence.

14. The Commission further finds that the Kalihi Valley Neighborhood Board No. 16 may not be aware that it can ask

Respondent to leave under Section 2-14-117(b) of the Plan, should such behavior continue.

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 February 12, 2014, the Respondent Arvid Youngquist did violate Section 2-14-117, Order and Decorum of the Plan as alleged in Complaint No. 2014-04.

The Commission further finds that Respondent Arvid Youngquist did not violate Sections 2-13-104 or 2-14-118 of the Plan, and hereby dismiss said allegations. Therefore, it is hereby ordered in accordance with Section 2-18-104 of the Plan, that the following sanction shall be ordered:

Respondent Arvid Youngquist shall be suspended from participating on the Kalihi Valley Neighborhood Board No. 16 for a period of thirty (30) calendar days, with any board meetings missed during the period of suspension to be counted as an absence. The thirty (30) day suspension period shall not fall on a recess month, and shall be determined by the Executive Secretary within twenty (20) days of this decision.

DATED: Honolulu, Hawaii, September 22, 2014.

NEIGHBORHOOD COMMISSION

By Sylvia Young  
SYLVIA YOUNG  
Its Chair