

BEFORE THE NEIGHBORHOOD COMMISSION

CITY AND COUNTY OF HONOLULU

STATE OF HAWAII

In the Matter of Pascual Dabis, )  
James Morris Rodrigues and )  
Joseph Larnerd, )

Complainants, )

v. )

Arvid T. Youngquist, Member of )  
Kalihi Valley Neighborhood )  
Board No. 16, )

Respondent. )

COMPLAINT NUMBERS 2014-05,  
2014-06, and 2014-07

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.

Bryan K. Mich  
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 June 4, 2014 at 6:49 p.m., in Honolulu Hale, Council Committee Room, 530 South King Street, 2nd Floor, Honolulu, Hawaii 96813. Before the Complaint hearing commenced, the Complainants' motion to consolidate Complaint Nos. 2014-05, Pascual Dabis v. Arvid T. Youngquist, Member of Kalihi Valley Neighborhood Board No. 16; 2014-06, James Morris Rodrigues v. Arvid T. Youngquist, Member of Kalihi Valley Neighborhood Board No. 16; and 2014-07 Joseph Larnerd v. Arvid T. Youngquist, Member of Kalihi Valley Neighborhood Board

No. 16; as allowed under Hawaii Revised Statutes ("HRS") Chapter 91-9(e)(1) was brought before the Commission. Respondent Arvid T. Youngquist ("Youngquist") had no objection to consolidate the complaints. The Commission approved the motion and consolidated the complaints for purposes of this hearing. The hearing on the consolidated complaints commenced immediately upon the conclusion of the motion. Complainants Pascual Dabis, James Morris Rodrigues and Joseph Larnerd were present and testified on behalf of themselves. Michael McDonald, Christopher Wong, Jack Nagaishi, and Devin B. Donahue testified on behalf of Complainants. Respondent Youngquist appeared and testified on behalf of himself.

The Complaints allege that at the February 12, 2014 Kalihi Valley Neighborhood Board No. 16 meeting ("February 12, 2014 meeting"), Respondent Youngquist arrived late to the meeting and instead of sitting at his seat, he engaged in conversations with other board members, causing a distraction; pulling the Board Chairman away from the meeting for no apparent reason; and he sang the song "My Way" at the podium during the "Community Concerns" portion of the Agenda.

The Complainants allege that Respondent Youngquist violated Sections 2-13-04 Standards of conduct; 2-13-106 Community forum

limitations, 2-14-117 Order and decorum; and 2-14-118

Discussion, of the 2008 Neighborhood Plan ("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, and Decision and Order.

#### FINDINGS OF FACT

1. Complaint Numbers 2014-05 and 2014-06 were filed on March 4, 2014 and Complaint Number 2014-07 was filed on March 5, 2014, pursuant to the provisions of Section 2-18-101(a)(3) of the Plan.

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

3. On March 12, 2014, Respondent Youngquist was notified of Complaint Numbers 2014-05 and 2014-06, On March 18, 2014, Respondent Youngquist was notified of Complaint Number 2014-07 and provided an opportunity to respond to the allegations contained in the Complaints. The Commission received a response from Respondent Youngquist on March 13, 2014 denying all allegations.

4. On May 15, 2014, in accordance with HRS Sections 91-9 Contested cases; notice; hearing; records and 91-9.5

Notification of hearing; service, notice of the hearing was provided to Respondent Youngquist via certified mail, return receipt requested as to all cases herein.

5. The Commission finds that at the February 12, 2014 meeting, the topics Respondent Youngquist raised during the Community Concerns portion of the Agenda were proper, although the song he sang was not "My Way", but, "Que Sera Sera".

6. The Commission finds that Respondent Youngquist was late to the February 12, 2014 meeting and proceeded to walk behind the Board Chair and Vice Chair and later pull the Chair aside to have a conversation while the board meeting was in progress and was disruptive as established in Complaint No. 2014-07.

7. The Commission finds that Joseph Larnerd, Complainant in Complaint Number 2014-07 has presented evidence to support his allegations that Respondent Youngquist has violated Section 2-14-117 Order and Decorum.

8. 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.

9. 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.

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 Complaint Numbers 2014-05 and 2014-06, the Commission, having heard the arguments of Complainants Pascual Dabis and James Morris Rodrigues and Respondent Youngquist, hearing the witnesses, considering all the evidence, finds that the Complainants failed to meet their burden of proof of proving that Respondent Youngquist violated the Plan by a Preponderance of the Evidence.

13. With respect to Complaint Number 2014-07, Section 2-13-06 Community forum limitations, this is an enabling and general purpose section of the Plan and not a violation and the Commission dismisses this allegation as such.

14. With respect to Complaint Number 2014-07, Section 2-14-118 Discussion, the Commission, having heard the argument of Complainant Joseph Larnerd and Respondent Youngquist, hearing the witnesses, considering all the evidence, finds that Complainant Joseph Larnerd failed to meet his burden of proof of providing that Respondent Youngquist violated the Plan by a Preponderance of the Evidence.

15. With respect to Complaint Number 2014-07, Section 2-14-117 Order and decorum (a), the Commission, having heard the arguments of Complainant Joseph Larnerd and Respondent Youngquist, hearing the witnesses, considering all the evidence, finds that Complainant Joseph Larnerd has met his burden of proof proving that Respondent Youngquist violated the Plan by a Preponderance of the Evidence.

16. The Commission further finds that after reviewing the Kalihi Valley Neighborhood Board No. 16, February 12, 2014 meeting, the Commission recognizes some frustration of the Board at running the meeting and recommends parliamentary procedure training for all Board members.

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 Complainants have 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, Respondent Arvid T. Youngquist, did not violate any provision of the Plan, as alleged in Complaint Numbers 2014-05 and 2014-06.

Therefore, it is hereby ordered in accordance with Section 2-18-101(b) of the Plan, that Complaint Numbers 2014-05 and 2014-06 are hereby denied and dismissed as to Respondent Arvid T. Youngquist.

The Commission further finds that on February 12, 2014, Respondent Youngquist did violate Section 2-14-117, Order and Decorum of the Plan, as alleged in Complaint Number 2014-07.

The Commission further finds that Respondent Arvid T. Youngquist did not violate Sections 2-13-104 Standards of Conduct or Section 2-14-118 Discussion of the Plan, and hereby dismiss said allegations alleged in Complaint Number 2014-07.

Therefore, it is hereby ordered in accordance with Section 2-18-104 of the Plan that the following sanction shall be ordered in Complaint Number 2014-07:

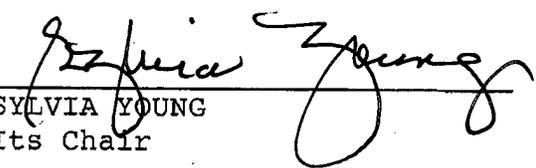
Arvid T. Youngquist shall be issued a letter of reprimand by the Neighborhood Commission Chairman as his actions behind the Chair and pulling the Chair away from the board meeting while the meeting was in progress were distracting.

DATED: Honolulu, Hawaii,

September 22, 2014.

NEIGHBORHOOD COMMISSION

By

  
SYLVIA YOUNG  
Its Chair

14-05869/14-05871/14-05872/357012