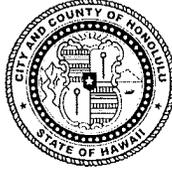


NEIGHBORHOOD COMMISSION OFFICE
CITY AND COUNTY OF HONOLULU

530 SOUTH KING STREET, ROOM 406 • HONOLULU, HAWAII 96813
PHONE (808) 768-3710 • FAX (808) 768-3711 • INTERNET: www.honolulu.gov/nco

KIRK CALDWELL
MAYOR



NICOLE A. VELASCO
EXECUTIVE SECRETARY

June 14, 2013

Mr. Michael Golojuch, Jr.
92-954 Makakilo Drive #71
Kapolei, Hawaii 96707

CERTIFIDE MAIL
RETURN RECEIPT REQUESTED
7012 2920 0001 2324 7008

Regarding: **Complaint No. 2012-03**
Michael Golojuch, Jr vs. Jame Schaedel / Evelyn Souza

Dear Mr. Golojuch, Jr.:

Enclosed for your records are the Findings of Fact, Conclusions of Law and Decision and Order decided by the Neighborhood Commission at the Special Commission Meeting/Sanctions Hearing held on Wednesday, April 17, 2013.

Please note that the "Decision and Order" finds that the Complainant, Michael Golojuch, Jr. failed to establish, by a preponderance of the evidence allegations 1, 2, 3, and 4 contained 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 Dismissed as to Respondents Schaedel and Souza. This complaint file has been closed.

If you have any questions, please contact my staff, Bryan Mick at bmick@honolulu.gov or 768-3717.

Sincerely,

A handwritten signature in black ink that reads "Nicole A. Velasco". The signature is written in a cursive, flowing style.

Nicole Velasco
Executive Secretary

Enclosure

cc: Laura Yoshida, Deputy Corporation Counsel
Michael Golojuch, Jr. (Certified)
Jame Schaedel (Certified)
Evelyn Souza (Certified)

BEFORE THE NEIGHBORHOOD COMMISSION

CITY AND COUNTY OF HONOLULU

STATE OF HAWAII

In the Matter of	)	COMPLAINT NO. 2012-03
Michael J. Golojuch, Jr.)	
Complainant	)	FINDINGS OF FACT, CONCLUSIONS
v.	)	OF LAW, AND DECISION AND ORDER
)	
Evelyn Souza and Jame Schaedel,	)	I certify that this is a full, true and correct
	)	copy of the original document on file with
	)	The Neighborhood Commission Office,
Respondents.	)	City and County of Honolulu.
	)	<i>Mike A. Velasco</i>
	)	Signature
	)	<i>06.13.13</i>
	)	Date

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.

Mike A. Velasco
Signature

06.13.13
Date

RECEIVED
NEIGHBORHOOD COMMISSION
CITY AND COUNTY OF HONOLULU
2013 JUN 14 PM 4:00

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

A complaint hearing was held at a Special Meeting of the Neighborhood Commission on April 17, 2013, at 6:30 p.m., in Honolulu Hale, Council Committee Room, 530 South King Street, 2nd Floor, Honolulu, Hawaii 96813. Michael Golojuch, Jr. (Complainant) appeared on behalf of himself, Jame Schaedel (Respondent) appeared and represented himself, Evelyn Souza was not present.

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 April 30, 2012, pursuant to the provisions of Section 2-18-201(a)(3) of the 2008 Neighborhood Plan, as amended ("Plan").

2. On April 25, 2012, at a Regular Meeting of the Neighborhood Board No. 34, the complainant alleges a violation of the neighborhood plan under Sections 2-13-105(2), 2-13-105(3) and 2-14-116.

3. At all times relevant herein, Respondents were members of the Neighborhood Board No. 34.

4. On August 31, 2012, Respondents were notified Complaint and provided an opportunity to respond to the allegations Complaint. The Commission received a response from Respondent Schaedel. Respondent Souza did not submit a response.

5. On October 10, 2012, 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 Respondents violated

the following sections of the Plan: 2-13-105(2), 2-13-105(3) and 2-14-116.

7. Section 2-13-105 (2) of the Plan requires that board members shall not disclose confidential information gained by reason of the member's office or position, or use that information for the member's personal gain or benefit of anyone.

8. Section 2-13-105 (3) of the Plan requires that board members shall not engage in any business transaction or activity, or have a financial interest, direct or indirect, which is incompatible with the proper discharge of a member's official duties or which may tend to impair the independence of judgment in the performance of the member's official duties.

9. Section 2-14-116 of the Plan requires any board member who knows he or she has a personal or private interest, direct or indirect, on 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 of the proposal.

10. The complaint contained four (4) specific allegations that occurred at the Neighborhood Board No. 34 Meeting on April 25, 2012: (1) Respondent Souza failed to disclose that she was employed by Honolulu City Council Member Tom Berg in violation of the Plan under section 2-13-105(2). (2) Respondent Souza asked questions of Honolulu City Council Member Tom Berg's

representative without disclosing that she was employed by Berg in violation of the Plan under section 2-13-105 (3) and 2-14-116. (3) Respondent Schaedel failed to disclose that he was employed by State Representative Gene Ward in violation of the Plan under section 2-13-105(2). (4) Respondent Schaedel asked questions of State Representative Tulsi Gabbard without disclosing that he was employed by State Representative Gene Ward in violation of the Plan under section 2-13-105(3) and 2-14-116.

12. Respondent Schaedel submitted a Motion to Dismiss Complaint in the form of a Certified Letter to the Commission on February 12, 2013.

13. After hearing arguments regarding the motion from Respondent and Complainant and reviewing all the documents submitted and balancing the equities, the Commission determined that the Respondent did not suffer prejudice in his case due to the delay in the processing of the Complaint and received the entire forty-five (45) days to respond to the Complaint. The Commission ruled to deny the motion and deemed the violation harmless error.

14. The Commission received an email from Respondent Souza on April 15, 2013 at 1:19 p.m. requesting a continuance of her portion of the hearing due to an unexpected personal matter. The Commission determined that Respondent failed to comply with

Section 2-18-101(d) of the Plan in which she failed to respond to the allegation within forty-five (45) calendar days and as such, Section 2-18-101(e) applies which states:

“if the respondent fails to timely file a response, any allegation contained in the complaint shall be deemed admitted by the respondent”

The Commission ruled that the motion to continue was denied as it was moot and the hearing would proceed as to both Respondents.

15. Complainant testified as to the claims in this Complaint.

16. Respondent testified and asked the Commission to take Judicial Notice of the Olelo video tapped meeting of the April 15, 2012 Neighborhood Board No. 34 meeting.

17. The Commission took Judicial Notice of the Olelo video tapped meeting of the April 15, 2012 Neighborhood Board No. 34 meeting.

18. With respect to allegations 1, 2, 3 and 4, 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 Schaedel and Respondent Souza violated the Plan by a Preponderance of the Evidence.

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.

6. No response to the Recommendation was filed by the Respondent Souza. Therefore, in accordance with Section 2-18-101(e) of the Plan, the factual allegations of the Recommendation are deemed admitted.

DECISION AND ORDER

Based upon the foregoing, the Commission hereby finds that the Complainant, Michael Golojuch, Jr. failed to establish, by a preponderance of the evidence allegations 1, 2, 3, and 4 contained 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 Dismissed as to Respondents Schaedel and Souza.

DATED: Honolulu, Hawaii, June 14, 2013.

NEIGHBORHOOD COMMISSION

By Sylvia Young
SYLVIA YOUNG
Its Chair