

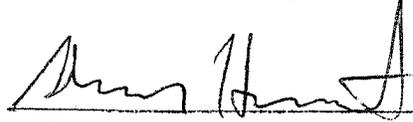
BEFORE THE NEIGHBORHOOD COMMISSION

CITY AND COUNTY OF HONOLULU

STATE OF HAWAII

In the Matter of )  
 Michael J. Golojuch, Jr. )  
 )  
 Complainant, )  
 )  
 v. )  
 )  
 Evelyn Souza )  
 )  
 Respondent. )

COMPLAINT NO. 2015-03  
 FINDINGS OF FACT, CONCLUSIONS  
 OF LAW, AND DECISION AND ORDER:  
 copy of the original document on file with  
 the Neighborhood Commission Office,  
 City and County of Honolulu, State of Hawaii.



Authorized NCO Representative

10/1/15  
 Date

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

A complaint hearing was held at a Special Meeting of the Neighborhood Commission on August 24, 2015, at 7:12 p.m., in the Mission Memorial Building, First Floor Hearings Room, 550 South King Street, Honolulu, Hawaii 96813. MICHAEL J. GOLOJUCH, JR. ("Complainant") appeared and represented himself. EVELYN SOUZA ("Respondent") did not appear.

The Complaint alleges that at the April 22, 2015 Makakilo/Kapolei/Honokai Hale Board No. 34 meeting ("April 22, 2015 meeting"), Respondent was unprofessional and disrespectful towards Complainant - she berated and demeaned him, "called him out" for not coming regularly to board meetings, told him not to smile and to keep his "trap shut." When he attempted to testify

on an agenda item, she cut him off and yelled for someone to call the police. She also ignored him when he indicated he wanted to speak during community concerns, allowed other community members to go over the time limit when speaking but cut him off.

The Complainant alleges that Respondent violated Sections 2-13-101 Purpose, 2-13-102 General powers, duties, and functions of the boards, 2-13-106 Community forum limitations, and 2-14-117 Order and decorum, of the 2008 Neighborhood Plan ("Plan"), as amended.

The Commission, having reviewed the Complaint, Response, 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 23, 2015, pursuant to the provisions of Section 2-18-201(a) (3) of the Plan.
2. At all times relevant herein, Respondent was the Chair of the Makakilo/Kapolei/Honokai Hale Neighborhood Board No. 34.
3. On May 26, 2015, Respondent was notified of the Complaint and provided an opportunity to respond to the allegations of the Complaint.

4. The Commission received untimely responses from Respondent on August 8, 2015 and August 14, 2015, which denied all allegations and asserted that Complainant was disruptive at the April 22, 2015 meeting.

5. On July 29, 2015, 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. On August 24, 2015, the Commission received a letter from Respondent Souza which informed the Commission that she would not be able to attend the hearing and requesting a continuance. A copy of the letter was provided to Complainant who objected to the request.

7. The Commission denied Respondent Souza's request, but accepted her letter as evidence in support of her position.

8. The Commission finds that at the April 22, 2015 meeting, Respondent repeatedly stopped and singled out and admonished Complainant for allegedly being disruptive.

9. The Commission further finds that at the end of agenda item III.b., Respondent disrupted the meeting by "calling out" Complainant and engaging in a verbal exchange which ended with Respondent threatening to have Complainant removed from the meeting.

10. The Commission further finds that at the end of agenda item III.c., Respondent again disrupted the meeting by "calling out" and admonishing Complainant and accusing him of disrupting the meeting. Respondent stated that Complainant "has not been to this board for months and then when he shows up, he starts." She ended her admonition by telling Complainant to "shut your trap" and ordering that her statement be placed in the minutes.

11. The Commission further finds that the Respondent's statement to Complainant to "shut your trap" was included in the meeting minutes.

12. The Commission further finds that when Complainant attempted to testify on agenda item III.d., Respondent interrupted his testimony and stopped the meeting.

13. The Commission further finds that when the meeting was called back to order, Respondent recognized Complainant to provide testimony. Complainant then asked "May I go?" To which Respondent rudely replied, "Whatever." Thereafter, Respondent repeatedly interrupted Complainant's testimony and argued with him. Respondent then abruptly stopped the meeting again.

14. The Commission further finds that Respondent did not allow Complainant to finish his testimony and instead unilaterally moved on to the next agenda item, "Community Concerns."

15. The Commission further finds that Respondent interrupted Complainant and attempted to stop him from speaking during "Community Concerns" but did not interrupt any other community member who stood up to speak.

16. The Commission further finds that Respondent's conduct was demeaning and contemptuous towards the Complainant.

17. The Commission further finds that it was Respondent's conduct and actions that was disruptive of the board meeting.

18. With respect to Section 2-13-101 Purpose, this is an enabling and general function section of the Plan and cannot be violated, and the Commission dismisses such.

19. With respect to Section 2-13-102 General powers, duties, and functions of the boards, this is an enabling and general function section of the Plan and cannot be violated, and the Commission dismisses such.

20. With respect to Section 2-13-106 Community forum limitations, this is an enabling and general function section of the Plan and cannot be violated, and the Commission dismisses such.

21. Section 2-14-117 Order and decorum, the Plan requires that all board members shall promote and preserve the order and decorum of the board's proceedings.

22. The Commission finds that Michael Golojuch, Jr., Complainant in Complaint No. 2015-03 has presented evidence to

support his allegations that Respondent Souza violated Section 2-14-117 Order and Decorum.

23. The Commission further finds that after reviewing the Makakilo/Kapolei/Honokai Hale Neighborhood Board No. 34, April 22, 2015 meeting, it is necessary for the Commission to remind all board members that Sections 2-14-117 and 2-14-123(b) (6) require all board members to assist in promoting and preserving order and decorum at meetings.

#### CONCLUSIONS OF LAW

1. The Complaint 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.

DECISION AND ORDER

Based upon the foregoing, the Commission hereby finds that on April 22, 2015, Respondent Evelyn Souza, Chair of the Makakilo/Kapolei/Honokai Hale Neighborhood Board No. 34, did violate Section 2-14-117, Order and Decorum of the 2008 Neighborhood Plan, as amended, as alleged in Complaint No. 2015-03.

The Commission further finds that Respondent did not violate Sections Section 2-13-101 Purpose, or 2-13-102 General powers, duties, and functions of the boards, or 2-13-106 Community forum limitations of the Plan, and hereby dismisses said allegations alleged in Complaint No. 2015-03.

Therefore, it is hereby ordered in accordance with Section 2-18-104 of the 2008 Neighborhood Plan, as amended, that the following sanction shall be ordered in Complaint No. 2015-03:

Respondent shall be suspended from participation on the Makakilo/Kapolei/Honokai Hale Neighborhood Board No. 34 for a period of thirty (30) calendar days, with any board meetings missed during the period of suspension to be counted as an absence in accordance with Section 2-18-104(b)(3) of the Plan. 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.

Additionally, Respondent shall be issued a letter of reprimand by the Neighborhood Commission Chairperson. Such letter shall be read into the record at the first noticed Board meeting following the Respondent's suspension. At that time, Respondent shall also apologize to the Community for her behavior at the April 22, 2015 board meeting.

DATED: Honolulu, Hawaii, \_\_\_\_\_.

NEIGHBORHOOD COMMISSION

By  \_\_\_\_\_

RUSSELL YAMANOHA  
Its Chair

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