

BEFORE THE NEIGHBORHOOD COMMISSION

CITY AND COUNTY OF HONOLULU

STATE OF HAWAII

In the Matter of
Isaac W. Choy

Complainant,

v.

Ellen M. Watson

Respondent.

) COMPLAINT NO. 2015-01

) 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.*



NCO Representative

8/25/15

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 June 30, 2015 at 7:05 p.m., in the Mission Memorial Building, First Floor Hearings Room, 550 South King Street, Honolulu, Hawaii 96813. Isaac W. Choy, (Complainant) appeared, represented by Russel H. Yamashita, Esq., Ellen M. Watson (Respondent) appeared and represented herself.

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 13, 2015, pursuant to the provisions of Section 2-18-201(a) (3) of the 2008 Neighborhood Plan, as amended ("Plan").

2. On March 04, 2015, at a Regular Meeting of the Neighborhood Board No. 7, the complainant alleges a violation of the Plan under Sections 2-13-104, 2-13-105, 2-13-106, 2-13-107, 2-14-117, 2-14-118 and 2-14-123.

3. At all times relevant herein, Respondent was a member of the Neighborhood Board No. 7.

4. On April 15, 2015, Respondent was notified of the Complaint and provided an opportunity to respond to the allegations of the Complaint. The Commission received a response from Respondent Watson on April 19, 2015.

5. On June 9, 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. The Complaint alleges that on the date set forth in paragraph 2 of this Findings of Fact, the Respondent violated the following sections of the Plan: 2-13-104, 2-13-105, 2--13-106, 2-13-107, 2-14-117, 2-14-118 and 2-14-123.

7. Section 2-13-104 Standards of conduct, the Plan requires that board members, in the performance of their duties, shall demonstrate by their example the highest standards of ethical conduct and Board members shall not use their positions to secure or grant special consideration, treatment, advantage, privilege, or exemption to themselves or any person beyond that which is available to every other person.

8. Section 2-13-105 (1) Conflicts of interest, the Plan requires that board members shall not solicit or accept any gift, directly or indirectly, whether in the form of money, loan, gratuity, favor, service, thing or promise, or in any other form, under circumstances in which it can reasonably be inferred that the gift is intended to influence the member in the performance of the member's official duties;

9. Section 2-13-105 (2) Conflicts of interest, 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;

10. Section 2-13-105 (3) Conflicts of interest, 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;

11. With respect to Section 2-13-106 Community forum limitations, this is an enabling and general function section of the Plan and not a violation, and the Commission dismisses such;

12. With respect to Section 2-13-107 Representative capacity of board members, this is an enabling and general function section of the Plan and not a violation, and the Commission dismisses such;

13. 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;

14. 2-14-118 Discussion, the Plan requires that 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;

15. 2-14-123 Duties of officers, the Plan requires that the chair shall be the presiding officer of a board. In the absence or disability of the chair, the vice chair shall act as the presiding officer. If both the chair and vice chair are absent or otherwise disabled, the secretary shall act as the presiding officer. If the chair, vice chair and the secretary

are absent or otherwise disabled, the treasurer shall act as the presiding officer or the board may elect a chair pro tem to temporarily serve as the presiding officer;

16. With respects to Section 2-13-104 Standards of conduct, Section 2-13-105 (1) Conflicts of interest, Section 2-13-105 (2) Conflicts of interest, Section 2-13-105 (3) Conflicts of interest, Section 2-14-117 Order and decorum, 2-14-118 Discussion, and 2-14-123 Duties of officers, of the Complaint, the Commission, having heard the arguments of the Complainant and Respondent, considering all of the evidence, finds that the Complainant failed to meet his burden of proof of proving that the Respondent 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

DECISION AND ORDER

Based upon the foregoing, the Commission hereby finds that on March 4, 2015, the Respondent Ellen M. Watson, Member of the Manoa Neighborhood Board No. 7, did not violate any provision of the 2008 Neighborhood Plan, as amended, as alleged in Complaint No. 2015-01.

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 Respondent Ellen M. Watson, Member of the Manoa Neighborhood Board No. 7.

DATED: Honolulu, Hawaii, August 24, 2015.

NEIGHBORHOOD COMMISSION

BY Sylvia Young
SYLVIA YOUNG
Its Chair