

BEFORE THE BOARD OF ETHICS

COUNTY OF HAWAI'I

In the Matter of the Petition by

JOLEEN L. K. NAKANO,

Petitioner.

PETITION NO. 2024-04

ORDER DISMISSING PETITION

Initial Review: May 8, 2024, June 12, 2024,
and July 17, 2024

ORDER DISMISSING PETITION

By Petition dated March 15, 2024, with the Hawaii County Board of Ethics (hereinafter “the Board”), Petitioner JOLEEN L. K. NAKANO (hereinafter “Petitioner”) alleged violations of Hawaii County Code Section 2-83(a)(3) of Fair Treatment by Respondent [REDACTED] (hereinafter “Respondent”).

At its duly noticed meeting of May 8, 2024, the Board reviewed and considered the above-captioned Petition in a closed hearing pursuant to Rule 4 of the *Rules of Practice and Procedure of the Board of Ethics*. Petitioner appeared in person provided her testimony before the Board. The Board received and reviewed evidence submitted by the Petitioner. Respondent appeared provided [REDACTED] testimony before the Board. The Board received and reviewed evidence submitted by the Respondent. During the questions, the Board were made aware of additional witnesses and continued to hear additional information, whether that be witnesses or other type of evidence.

At its duly noticed meeting of June 12, 2024, the Board continued its review and consideration of the above-captioned Petition in a closed hearing pursuant to Rule 4 of the *Rules of Practice and Procedure of the Board of Ethics*. Petitioner appeared in person and submitted

oral testimony of two witnesses to the Board via Zoom conference technology. Respondent appeared in person with the assistance of counsel. The Board asked questions of the witnesses and allowed the Respondent to respond to the submitted testimony. The Board continued to hear from the Respondent's witnesses.

At its duly noticed meeting of July 17, 2024, the Board continued its review and consideration of the above-captioned Petition in a closed hearing pursuant to Rule 4 of the *Rules of Practice and Procedure of the Board of Ethics*. Petitioner appeared in via Zoom conference technology. Respondent appeared in person with the assistance of counsel. Respondent via counsel had filed a Motion to Dismiss. The Board reviewed and considered the motion. Board Member Christopher Ho moved to deny Respondent's Motion to Dismiss. The motion was seconded by Board Member Scotty Paiva. The Board unanimously approved the motion to deny the Respondent's Motion to Dismiss by a vote of 4-0. The Board then heard from the three witnesses presented by Respondent via Zoom conference technology and over the phone. The Board asked questions of the witnesses.

The Board having examined and weighed the record and files in this case and the evidence submitted by the Petitioner and Respondents, the Board made a series of motions. First, Board Member Christopher Ho moved to dismiss Petition 2024-04 pursuant to Board of Ethics Rule 4.8 because the evidence fails to meet the burden of showing a probable violation of the Hawai'i County Code of Ethics. The motion was seconded by Board Member Scotty Paiva. There was one vote in favor and three votes against (3 absent). The motion failed for lack of a majority of the membership in support of the motion.

Second, Chair Short moved to find a probable violation of the Hawaii County Code of Ethics under 2-83(a)(3), there persons should be treated in a courteous, fair and impartial manner

that Respondent was not courteous in [REDACTED] comments, “I should transfer to be a building permit clerk, so I can be mean and tell off customers every day” in a public area where clerks openly conduct business. Chair Short wanted to add additional language mentioning the Respondent’s conduct before the board, during the May 8, 2024, was unbecoming of a supervisor, and Respondent’s demeanor, tone and attitudes to this board were unprofessional and disrespectful, that Respondent interrupted the Board members, used an aggressive tone and told this Board we were occupying [REDACTED] “precious time.” Board member Scotty Paiva seconded the motion. There were three votes in favor and one vote against (3 absent). The motion failed for lack of a majority of the membership in support of the motion.

Third, Chair Short moved to find a probable violation of the Hawaii County Code of Ethics under 2-83(a)(3), there persons should be treated in a courteous, fair and impartial manner and that the statement “I should transfer to be a building permit clerk so I can be mean and tell off customers every day in a public area where clerks conduct business is not courteous. There were three votes in favor and one vote against (3 absent). The motion failed for lack of a majority of the membership in support of the motion.

Thus, due to the lack of a majority of the membership voting in the affirmative for a particular finding, as required by Hawaii County Charter Section 13-4(h), an informal advisory opinion cannot be rendered. Therefore, Petition 2024-04 is dismissed due to a lack of finding.

ORDER

Based upon the foregoing, the Hawai‘i County Board of Ethics is unable to render a finding. Petition No. 2024-04 is hereby dismissed.

Pursuant to Board Rule 4.9, the Order Dismissing the Petition shall be filed and a copy shall be sent to the Petitioner and Respondent.

Dated: Hilo, Hawai'i, 9.11.2024

BOARD OF ETHICS, COUNTY OF HAWAI'I

By 
RACHEL SHORT
Chair

APPROVED AS TO FORM
AND LEGALITY:


SYLVIA WAN
Deputy Corporation Counsel