

Hawaiian Shores Community Association

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ENFORCEMENT REVIEW COMMITTEE

MINUTES FOR MEETING #14

4/27/2020 @ 6 PM

The meeting was called to order at 6:03 PM and a quorum was verified. This is a virtual meeting attended remotely by committee members and HSCA members who chose to speak at the meeting.

In attendance: Eileen O'Hara, Roger Guenette, Tom Cumming, Steve Bailey, Caroline Weber. Kendra Tidwell and Barbara Barr represented HSCA staff. Also in attendance were Koreen Ferguson, Seth Peace, Tim and Lori Tetrault, Elizabeth Steiner, and Katt Kuhlman, all of whom expressed a desire to submit statements and speak concerning the unauthorized cutting of trees in Papio Park.

Eileen O'Hara, advanced the last order of new business that concerned unauthorized tree cutting in Papio Park for which the committee had received 6 written statements. She began with describing the ERC's role in the matter relative to CC&R enforcement. Eileen also indicated that further action may need to be forwarded to the Board of Directors should a special assessment be considered. She went on to describe how the park was first formed and that the park is located within a Special Management Area (SMA). Eileen further explained that the association had also applied for and received a Minor SMA permit in 2011. This permit describes the type of work that can be performed within the park.

Eileen then advised each member that they would be given up to 3 minutes to add to their written statement. She then opened the floor to Tim Tetrault for his statement.

Tim read from his statement and indicating that he only went into the park to clean the area up as there were many partially fallen trees and limbs haphazardly lying around. He also said that the park was in much better shape when they first bought their property.

Eileen then yielded the floor to Lisa Steiner for her statement. Lisa indicated that she had witnessed several others in the park cutting trees and wondered why this was such a big issue and why it is taking so long to clean up the debris as there were trees leaning on other trees and that some may hit the power lines. Steve responded that

HSCA needs Hawaii County approval before removing the debris and that this approval would be requested soon. Steve also indicated that he did not believe any of the partially cut trees are endangering the power lines. Steve also said that it could take 3 or 4 weeks after county approval to have all the debris removed given the nature of the terrain and other work priorities that HSCA may have.

Eileen then yielded the floor to Koreen Ferguson. Koreen explained that she had witnessed multiple hala trees cutting within the park and most recently witnessed Tim Tetrault in the park cutting the hala trees. She also stated that hala trees are sacred to the Hawaiian people and that they protect the shoreline from hurricane related wind and rain. Koreen then stated that she tried to discuss the tree cutting with Lisa and Tim but that the conversation did not go well so she called the HSCA office to report the tree cutting. There was some back and forth between the callers on the meeting and Steve eventually had to mute all microphones as this conversation was not directly related to the cutting of the hala trees and much of the conversation was not very easy to hear.

Eileen then yielded the floor to Katt Kuhlman for her statement. Katt indicated that various residents have either cut trees within the park themselves or hired someone to do this to preserve their ocean views. Katt further indicated that HSCA had started a discussion on how best to maintain and improve the park both at a previous annual meeting and by forming a committee to discuss these options. The committee was formed after various members walked through the park and came up with some ideas for both routine maintenance and longer term planning. Katt also suggested that the SMA permit should be placed on the HSCA web site and that the association should continue the park planning process.

Eileen then yielded the floor to Tom Cumming. There was some difficulty with Tom's microphone so Eileen then yielded the floor to Seth Peace. Seth indicated that he did submit a statement and that there was more going on than just concerns about the tree cutting. Seth indicated that there was a proper way to proceed with work like this but that it should be done following association rules and any other rules that might be in place. He reiterated his concerns about hurricane driven rain and wind and that the tree cutting had driven many tree rats toward their home.

Eileen then yielded the floor to Tom Cumming. Tom reflected on the history of the park that started in 2011. At that time certain members of the association believed that it was not appropriate to spend funds on a park that only benefits a small portion of the community that also had higher property values. This resulted in the park being created using proceeds from coconut tree removal and extensive use of volunteers to level and seed the grass areas. Tom went on to say that he has personally spent numerous hours volunteering within the park and felt that these efforts were not recognized and even criticized for his work.

This concluded the testimony. Eileen then stated that she felt there were several inaccuracies within the statements provided, with particular note that she did not feel like she had canvassed the neighborhood when she tried to present a statement she was preparing with three of her neighbors to help finalize their statement. She also referenced that various neighbors had yelled at Tom when he placed a sign indicating that hala trees should not be cut. She further stated that other conversations that she had with neighbors trying to find out what happened were not very friendly. Again, the conversation tended to get out of hand and was somewhat unintelligible. Steve then requested the floor asking if he could have the floor to make a motion.

Steve then moved that after reviewing statements, hearing testimony, reviewing ERC procedures, CC&R's and conducting a thorough investigation that the ERC cannot find a specific violation of the CC&R and as such the ERC is not empowered to take any action. Steve further moved that this matter should be referred back to the Board of Directors for consideration of a special assessment as there has been damage to the association's common property. Eileen seconded. The motion carried unanimously.

Steve moved to approve the minutes of the March 23, 2020 ERC meeting. Roger seconded. The motion carried unanimously.

The first order of old business involved Lot 723 and coconut palms that were overhanging a neighbor's property. The owner did acquire a survey and then decided to remove the trees as they were straddling the property. This action removes the need to fine. Roger moved to waive the fine, Steve seconded. The motion carried unanimously.

The next order of old business concerned Lot 1195 and the need to remove albizia trees. The trees have now been removed even though she had been fined four times. The owner is requesting that the fines be rescinded. Tom moved to rescind the fine. Steve seconded. The motion passed unanimously.

The next order of old business involved Lot 1029 and a tree that had fallen and damaged a fence. Kendra indicated that the owner was having difficulty making arrangements to get the work done due to her age. The owner has been fined four times. Although the fence had been repaired the trees are still threatening the neighboring lot. Roger indicated he understood her issues but that the committee should still move to issue a fine notice. Caroline seconded. The motion carried unanimously.

The next order of old business involved Lot 1392 concerning encroaching trees and vines. The owner has contacted us and is refusing to do anything about it himself but

anyone else can. Steve moved that we send a fine notice to the owner. Tom seconded. The motion carried unanimously.

The first order of New Business involved Lot 1579 and a large encroaching tree that is overhanging the neighbor's roof. The owner does live in Japan and notices include a Japanese statement about how important this notice is and to get it translated. Roger moved to fine the owner, Roger seconded. The motion carried unanimously.

The next order of New Business involved Lot 1780 and various weed trees encroaching on neighboring property. Owner originally indicated that they were trying to remove the weed trees but no action has been taken yet. The owner did indicate that her age and the COVID 19 pandemic is making it difficult to get the work done. Steve moved to give the owner 30 more days to comply. Roger seconded. The motion carried unanimously.

The next order of New Business involved Lot 334. Owner has received four notices but also indicated that they could not find contractors due to COVID 19. Roger moved to fine the owner. Steve seconded. The motion carried unanimously.

The next order of New Business involved Lot 1034 and very large albizia trees. They also reached out and explained COVID 19 related financial difficulties. Tom moved to give the owner 30 more days to remove the trees. Steve seconded. Roger suggested that maybe they would need more time and Tom amended the motion to provide 90 days. The amended motion carried unanimously.

The next order of New Business involved Lot 1032 and very large albizia trees. They also reached out and explained COVID 19 related financial difficulties. Steve moved that we fine the owner and contact Hawaii County Public Works to see if they can do anything. Roger seconded. Motion carried unanimously.

The next order of New Business involved Lot 948 concerning encroaching and overgrown trees. This item has reached its maximum fine amount and can be considered for small claims court. There are five family members on the deed. One member was willing but others were not. Steve moved that the item be recommended to the Board for consideration of small claims court. Caroline seconded. The motion carried unanimously.

The next order of New Business involved Lot 276 concerning a structure violation and abandoned construction. This item has reached its maximum fine amount and can be considered for small claims court. Steve moved that the item be recommended to the Board for consideration of small claims court. Roger seconded. The motion carried unanimously.

The next order of New Business involved Lot 1892 and squatters that may have children in a home that does not have any water or electric utilities hooked up. This is an informational item as we are having difficulty getting a limited power of attorney from the owner's daughter. The owner has designated his daughter as a POA as he is in hospice on the main land. Some have witnessed children throwing rocks within the right of way. Steve indicated that we have spoken with the owner's brother who says no one should be in the home. However, we cannot get in contact with the owner's daughter. We will try to verbally warn the squatters that they need to move on and that we would report them to child protective services should we witness children on the property.

There being no further business for the committee, the meeting was adjourned at 7:15 PM.

St Bailey
Steven Bailey

6/22/2020
Date