

TO: Department of Neighborhood Empowerment (DONE)

ATT: Lorenzo Briceno

FROM: Regional Grievance Panel, May 3, 2021, Jean Frost, Doug Barish, Zaid Diaz-Arias

RE: Grievance #250, #260 and 261 against the Historic Cultural North Neighborhood Council  
May 7, 2021

On May 3, the Regional Grievance Panel convened at 6:03 to hear Grievance #250, 260 and 261 regarding the Historic Cultural North Neighborhood Council. The Grievance Panel was convened and conducted pursuant to **Administrative Code Sec. 22.818. Neighborhood Council Grievances**. The hearing followed the "Special Hearing Agenda" as published by DONE. In addition to ZOOM computer translation, to facilitate those persons attending by telephone, additional translation occurred during the meeting.

The Panel decisions were based entirely<sup>1</sup> upon the grievance form and relevant paperwork provided by the Grievant and Neighborhood Council (NC) Representative, and the testimony of the Grievant and Neighborhood Council Representatives. The hearing was conducted as required by the Administrative Code.

#### **Grievance #250 and #260**

#250 Violation of Board of Neighborhood Commissioners policy: The HCNNC board permitted a board member, Huiling Cai, who had been suspended by DONE, to participate in and vote in a board meeting.

#260 Bylaws Violation: Article VI. Section 1: *"The officers of the HCNNC shall be elected by the Board and serve as members of the Executive Committee. To encourage and foster broad participation and representation of this community the Officers of the Board shall be as follows:*

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<sup>1</sup> The only written evidence considered at the Grievance Panel Hearing will be the Grievance Form, the Grievance Response Form and up to three Witness Statements filed by each side. At the hearing on the Grievance, the Grievant shall have the opportunity to present an opening argument not to exceed ten minutes. The Neighborhood Council designee shall have the opportunity to present an opening argument not to exceed ten minutes. The Grievant shall present a rebuttal not to exceed five minutes. The Neighborhood Council representative shall present a rebuttal not to exceed five minutes. The Regional Grievance Panel may, in its sole discretion, extend the time of the opening arguments and rebuttals. No further witness testimony shall be allowed. After conclusion of the rebuttal by the Neighborhood Council representative, the Regional Grievance Panel may question either of the parties. The Regional Grievance Panel will open the matter for public comment for ten minutes unless, in the sole discretion of the Regional Grievance Panel, additional time for public comment is necessary to adjudication of the Grievance. The Regional Grievance Panel then shall deliberate the Grievance and prepare a written recommendation to the Department.

*Chair; Vice-Chair (#1); Vice-Chair (#2); Secretary; and Treasurer. The Executive Committee will have at least one member from each community. If a community does not have a member willing to serve as an Officer, then the seat will be open to the entire Board."*

The panel voted unanimously to sustain both grievances after a thorough review of the record. The several hundred documented pages provided substantial evidence and were persuasive in confirming the basis for the two grievances.

#250 The documentation clearly demonstrated that a member was permitted by the Chair to vote and participate while on suspended status. The suspension had been made known.

#260 the documentation showed a violation of the By-Laws in conducting the election of Treasurer. The Chair and Board failed to adhere to the By-laws requiring at least one representative from each community unless there was no one available to serve.

The NC testimony against the grievance offered no fact-based argument that these actions did not occur other than demonstrating an apparent lack of understanding of the DONE Policy on suspension and the requirements of the By-Laws to have representation from each of the communities unless no one is available to serve.

#### REMEDIES:

- Take corrective action that a new election of officers be undertaken (without the current Chair being eligible to run).
- Placement of the operations of the Neighborhood Council Board under the control and supervision of the Department for 120 days.
- Require that a Board Retreat be held, subsequent to the election of Officers (or conducted in conjunction with election of Officers,) with training in By-Laws, Roberts Rules of Order, Budget Creation, the Brown Act and Code of Conduct.

#### **Grievance #261**

Bylaws Violation: Article VIII, Section 1A. "Regular Meetings - Regular HCNNC meetings shall be held throughout each calendar year. Each calendar year should hold at least nine (9) meetings and may be held more frequently as determined by the Board."

The panel voted unanimously to sustain the grievance after a thorough review of the record and hearing the testimony of the grievant and the two NC Representatives.

Again, the several hundred pages of documentation provided by the grievant was very persuasive in establishing a pattern of scheduling meetings and providing facts to support the grievance. While the pandemic may have caused some justified irregularities, the issue of regular meetings occurred before the pandemic and continued. While the Brown Act provides for special meetings and allows 24-hour notice, such meetings have been called in greater

number than is reasonable and creates an inability for the public and some board members to plan for meetings and participate. Also, the practice of early meetings in the middle of the workday raises inclusivity issues. The argument was made by NC Representatives that seniors cannot participate at later hours.

“Even after the board approved the third Tuesdays at 4pm for regular meetings at the September 16th special meeting, the Chair decided to call two more special meetings: (1) on Wednesday, September 23 and (2) Wednesday, October 7, to approve encumbrances and the administrative packet/budget.”

The panel sustained the grievance and offered the following remedies:

- That the Chair and Treasurer be suspended for 6 months
- Direct that HNNC meetings be regularly scheduled and not earlier than 5PM

This represents the determination of the Grievance Panel Special Hearing based on the substantial evidence in the record before us. It is a concise summary and does not contain every argument or statement made during the over four-hour hearing. The paper records in these three grievances were voluminous; these decisions are fact based and unanimous.

The Special Hearing was adjourned at approximately 10:15.