OFFICE OF ADMINISTRATIVE HEARINGS
CONDOMINIUM DISPUTE RESOLUTION PROGRAM
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
STATE OF HAWAI'I

In the Matter of	)	CDR-2008-1
	)	
BARBARA SUZUKI,	)	HEARINGS OFFICER'S
	)	FINDINGS OF FACT,
Petitioner,	)	CONCLUSIONS OF LAW,
	)	AND ORDER GRANTING
vs.	)	RESPONDENT'S MOTION
	)	TO DISMISS PETITIONER'S
BOARD OF DIRECTORS, WAIKALANI	)	REQUEST FOR HEARING
WOODLANDS,	)	
	)	
Respondent.	)	
	)	

HEARINGS OFFICER'S FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND ORDER GRANTING RESPONDENT'S
MOTION TO DISMISS PETITIONER'S REQUEST FOR HEARING

I.   INTRODUCTION

On January 30, 2008, Barbara Suzuki ("Petitioner"), filed a request for hearing with the Office of Administrative Hearings, Department of Commerce and Consumer Affairs. The matter was thereafter set for hearing and the Notice of Hearing and Pre-Hearing Conference was duly served on the parties.

On March 10, 2008, Respondent Board of Directors, Waikalani Woodlands ("Respondent") filed a motion to dismiss Petitioner's request for hearing.

On March 14, 2008, Respondent's motion came on for hearing before the undersigned Hearings Officer; Terrance M. Revere, Esq. appearing for Respondent and Barbara Suzuki appearing *pro se.*

By letter dated March 14, 2008, the Hearings Officer, having considered Respondent's motion and the issue raised, directed Respondent, as the prevailing party, to submit proposed findings of fact and conclusions of law.

Having reviewed and considered the evidence and arguments presented by the respective parties at the hearing, together with the entire record of this proceeding, the Hearings Officer hereby renders the following findings of fact, conclusions of law and order. Respondent's proposed findings and conclusions were adopted to the extent that they were consistent with the established factual evidence and applicable legal authority, and were rejected or modified to the extent that they were inconsistent with established factual evidence and applicable legal authority or were otherwise irrelevant.

II.   FINDINGS OF FACT

1. Petitioner resides in and is the owner of an apartment unit in The Waikalani Woodlands ("Project").

2. Petitioner's request for hearing raised a number of "issues" relating to the placement of several trash bins within the Project.

III.   CONCLUSIONS OF LAW

Hawaii Revised Statutes ("HRS") §514A-121.5 provides in pertinent part:

(a) If an apartment owner or the board of directors requests mediation of a dispute involving the interpretation or enforcement of the association of apartment owners' declaration, bylaws, or house rules, the other party in the dispute shall be required to participate in mediation.

*   *   *   *

(b) If a dispute is not resolved by mediation as provided in subsection (a), in addition to any other legal remedies that may be available, any party that participated in the

mediation may file a request for a hearing with the office of administrative hearings, department of commerce and consumer affairs, . . .

The foregoing statute limits the Hearings Officer's jurisdiction to hear disputes involving the interpretation or enforcement of the association of apartment owners' declaration, bylaws, or house rules. Notwithstanding this, Petitioner has failed to sufficiently allege or otherwise establish that this matter involves the interpretation or enforcement of the Project's governing documents. Under these circumstances, and mindful of the fact that administrative agencies are tribunals of limited jurisdiction, the Hearings Officer must conclude that Petitioner's request for hearing falls outside the jurisdictional authority of the Hearings Officer. Consequently, the Hearings Officer lacks any legal authority to hear this matter.

IV.   ORDER

Based on the foregoing considerations, the Hearings Officer orders that Respondent's motion to dismiss Petitioner's request for hearing is granted and that the request for hearing be and is hereby dismissed.

Dated at Honolulu, Hawaii: _____ SEP 1 9 2008 _____.

/s/ CRAIG H. UYEHARA
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CRAIG H. UYEHARA
Administrative Hearings Officer
Department of Commerce
  and Consumer Affairs