ASUCI JUDICIAL BOARD

"All judicial authority of ASUCI shall be vested in the Judicial Board. The Judicial Board's authority shall extend to all judicial cases arising under [the ASUCI] Constitution; the various by-laws of ASUCI; all official actions of the Executive Officers, Legislative Council members, and ASUCI Commissioners; and any matters delegated to the Judicial Board by the Legislative Council."

Judicial Ruling on R50-04

Associate Justice Kevin Tanaka, writing for the majority, in which Chair Agbelemose, Vice Chair Lozano, and Justice Lee join.

Upon reviewing ASUCI legislation during its meeting on Friday, October 17, 2014, the ASUCI Judicial Board has found fault with Resolution 50-04, "Confirmation of T.G.I.F. Sustainability Commissioner" (R50-04). The Judicial Board therefore issues this ruling regarding the resolution.

The Judicial Board possesses the authority to "interpret all parts of [the ASUCI] Constitution."[1] All legislation passed by the Legislative Council must be "necessary and proper … according to [the ASUCI] constitution."[2] In order for legislation to be Constitutionally proper, it "must … follow all proper procedures laid out in [ASUCI] By-laws."[3] As "[The Green Initiative Fund] exists solely as an entity of … ASUCI,"[4] The Green Initiative Fund's (TGIF) By-Laws are ASUCI By-laws for the purposes of this ruling. In assessing legislation, the Judicial Board has reviewed the TGIF By-Laws which have outlined a defined process in which positions should be filled.

The Green Initiative Fund By-Laws state that, "Thereafter, the ASUCI Sustainability Commissioner shall be appointed during Spring Quarter prior to the academic year of service".[5] The appointment made in R50-04 is an appointment that is being made during the Fall Quarter of this current year and is therefore problematic due to the delayed timing. The Judicial Board is not, at this point, making a ruling on whether the Spring appointment provision is descriptive or prescriptive. However, the Sustainability Commissioner appointment process is clearly meant to occur solely in the Spring Quarter, and does not function properly otherwise. We recommend the appropriate ASUCI oversight entities take care in ensuring the By-Laws are properly followed, or otherwise amend the TGIF By-Laws to reflect the actual nature of the appointment process.

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[1] ASUCI Constitution, Article VI, Section B(1)
[2] *Id.*, Art. IV, Sec. B(1)
[3] *Judicial Ruling on R49-57*
[4] *Klauschie v. The Green Initiative Fund (TGIF)*
[5] TGIF By-Laws, Art. 2, Sec. A(iii(1))

This process was run by the current Administrative Affairs Vice President. According to the Resolution, the Admin. Affairs VP "received approval from the Executive Branch and consulted with [the applicant's] Advisor", that is, a member of the ASUCI professional staff. This sort of attempted substitute procedure cannot be reconciled with ASUCI governing documents. According to the By-Laws, this applicant was supposed to be nominated initially by the Executive Board and TGIF Grant Making Committee and then reviewed and voted on by the Legislative Council. Judicial Board finds fault with the administration of the application process.

The Executive Board members and TGIF Grant Making Committee are supposed to run the entire application and appointment proposals as outlined in Article 2 of the TGIF By-Laws.[6] The following Subsection 5 also lays out the steps outlined for how ASUCI Sustainability Commissioner applicants are to be presented to the Legislative Council, in which no proof of execution can be seen in R50-04.

The TGIF By-Laws outlines a democratic process in which, "Legislative Council shall make the final appointment of ASUCI Sustainability Commissioner by majority vote after reviewing all candidates' qualifications and responses to the ASUCI Sustainability Commissioner Application Packet".[7] In addition, The TGIF By-Laws require the Executive Cabinet and TGIF Grant Making Committee to jointly present a minimum of three and a maximum of five total Sustainability Commissioner Candidates, if possible, with one Primary Candidate recommendation.[8] When less than three applications for the position are submitted, the joint nominators must present all applications to the Council, with one Primary Candidate recommendation.[9] The legislation of R50-04 never indicates that other candidates were presented to Legislative Council nor includes an explicit Primary Candidate recommendation. The Judicial Board respects the democratic process of election presented within the TGIF By-Laws and finds fault with the lack of information presented in regards to the other candidates. In order to uphold the student body's inherent "rights to a voice in campus governance",[10] as well as ASUCI members' right and privilege to "seek, obtain, and hold office without discrimination or abridgement",[11] the Board rules that future appointment legislation must certify that all procedures required to make to such an appointment have been correctly followed.

For the reasons listed above, the Judicial Board has determined that R50-04 is in contradiction with the The Green Initiative Fund By-Laws. The Board has unanimously voted to take action. Utilizing the authorities vested in it by the Constitution, the Board hereby declares that Resolution 50-04, "Confirmation of T.G.I.F. Sustainability Commissioner", is not in effect and its implementation is barred.

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[6] TGIF By-Laws, Art. 2, Sec. A(iii(2))
[7] TGIF By-Laws, Art. 2, Sec. A(iii(4))
[8] TGIF By-Laws, Art. 2, Sec. A(iii(5))
[9] *Ibid.*
[10] ASUCI Constitution, Preamble
[11] ASUCI Constitution, Art. 2, Sec. C

IT IS SO ORDERED

_____/s/_____
Oluwatobi Agbelemose, Chair

_____/s/_____
Myron Lozano, Vice Chair

_____/s/_____
Annette Lee, Associate Justice

_____/s/_____
Kevin Tanaka, Associate Justice