

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of	)	CASE NO. CE-01-390
	)	
UNITED PUBLIC WORKERS, AFSCME,	)	ORDER NO. 1634
LOCAL 646, AFL-CIO,	)	
	)	
Complainant,	)	ORDER DENYING COUNTY OF
	)	HAWAII'S PETITION TO
and	)	INTERVENE AS A PARTY
	)	RESPONDENT
	)	
JEREMY HARRIS, Mayor, City and	)	
County of Honolulu and ROBERT J.	)	
FISHMAN, Managing Director, City	)	
and County of Honolulu,	)	
	)	
Respondents.	)	

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ORDER DENYING COUNTY OF HAWAII'S  
PETITION TO INTERVENE AS A PARTY RESPONDENT

On May 20, 1998, Petitioner-Intervenor County of Hawaii (County), by its counsel, filed a motion to intervene in these proceedings with the Hawaii Labor Relations Board (Board). The County contends that as a public employer, it has a statutory right to intervene in this case. The County further contends that pursuant to § 89-10, Hawaii Revised Statutes (HRS), it no longer has a valid agreement with the UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO (UPW). The County contends that a decision in this case will impact upon it because it would be forced to abide by a negotiating process in which it did not participate. The County contends that its interests are different from that of Respondent JEREMY HARRIS (HARRIS) since HARRIS contends that the cost items are unacceptable and were not agreed to by the parties. The County contends that it did not participate in or was not

allowed to contribute to the negotiation process concerning the language of the proposed contract, especially in terms of non-cost items. According to the County, through intervention, the Employers and the UPW could resolve the issues of which party or parties committed the Employers to the contract and what those terms and conditions were, including the suppression of the participation of the County's negotiating representative. The County contends that its participation will not broaden the issues or delay the proceedings. The County further contends that the public interest is best served by the Board issuing a clear rule concerning the conflicting allegations of which Employer's negotiating representatives actually bound the Employers to the terms and conditions of the proposed collective bargaining agreement, what the circumstances were which led to that misunderstanding and whether the County's representative was precluded or prohibited from participating in the negotiation process. The County therefore requests that the Board grant its petition for intervention.

On May 21, 1998, the UPW filed a memorandum in opposition to the County's petition for intervention with the Board. The UPW contends that the petition is untimely since the record of the proceedings, except for the testimony of Manabu Kimura, is closed. The UPW contends that the County was aware of the case since at least April 30, 1998, when Michael Ben, its civil service director, was called as a witness. The UPW alleges that Michael Ben's testimony confirms that the County authorized Sandra Ebesu to represent the Employer group together with Manabu Kimura in negotiations with the UPW. The UPW contends that the County's

interest was apparently represented at the bargaining table by HARRIS. Further, the UPW contends that the County will not assist in the development of the record at this point and moreover, the UPW contends that the County has already participated by Michael Ben's involvement in the development of the record. The UPW also contends that the County can have adequate means to protect its claims in defense of another complaint which has been filed by the UPW against the respective counties.

After considering the written submissions and reviewing the record in this case, it is clear that the Board closed the record in this proceeding on May 8, 1998 with both parties resting their cases subject to the taking of Mr. Kimura's testimony. Arguments on the UPW's motion for interlocutory order were heard on May 11, 1998. The Board scheduled the further hearing to take Mr. Kimura's testimony on May 29, 1998. Post-hearing briefs are presently due on June 9, 1998. Thus, under the circumstances of this case, the Board finds that the County's petition to intervene in the proceedings is untimely. The County seeks to establish, inter alia, that it was foreclosed from participating in the negotiations over the non-cost items. Given the state of the record, the Board finds that granting the County's petition would unreasonably broaden the scope of these proceedings to the disadvantage of the existing parties. While the County contends that its interests are not aligned with Respondent HARRIS because the respective employers took different positions at the bargaining table, the Board finds that the County's interests are adequately represented by HARRIS' vigorous defense to the instant complaint.

Based on the foregoing, the Board hereby denies the County's petition to intervene.

DATED: Honolulu, Hawaii, June 1, 1998.

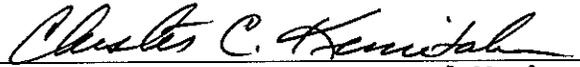
HAWAII LABOR RELATIONS BOARD



BERT M. TOMASU, Chairperson



RUSSELL T. HIGA, Board Member



CHESTER C. KUNITAKE, Board Member

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