

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

| | | |
|--------------------------------|---|------------------------------|
| In the Matter of |) | CASE NO. R-10-19 |
| |) | |
| HAWAII TEAMSTERS & ALLIED |) | ORDER NO. 644 |
| WORKERS, LOCAL 996, INTER- |) | |
| NATIONAL BROTHERHOOD OF |) | ORDER GRANTING MOTION TO |
| TEAMSTERS, |) | PRECLUDE DISCLOSURE OF NAMES |
| |) | AND ADDRESSES OF ELIGIBLE |
| Petitioner, |) | VOTERS |
| |) | |
| and |) | |
| |) | |
| JOHN WAIHEE, Governor of the |) | |
| State of Hawaii, and FRANK F. |) | |
| FASI, Mayor of the City and |) | |
| County of Honolulu, |) | |
| |) | |
| Employers, |) | |
| |) | |
| and |) | |
| |) | |
| UNITED PUBLIC WORKERS, AFSCME, |) | |
| LOCAL 646, AFL-CIO, |) | |
| |) | |
| Exclusive |) | |
| Representative- |) | |
| Intervenor. |) | |

ORDER GRANTING MOTION TO PRECLUDE DISCLOSURE
OF NAMES AND ADDRESSES OF ELIGIBLE VOTERS

On September 9, 1987, the UNITED PUBLIC WORKERS, LOCAL 646, AFSCME, AFL-CIO [hereinafter referred to as UPW] filed a Motion to Preclude Disclosure of Names and Addresses of Eligible Voters with the Hawaii Labor Relations Board [hereinafter referred to as Board]. On September 14, 1987, the HAWAII TEAMSTERS AND ALLIED WORKERS, LOCAL 996, INTERNATIONAL BROTHERHOOD OF TEAMSTERS [hereinafter referred to as TEAMSTERS] filed a Memorandum in Opposition to Motion to Preclude Disclosure of Names

and Addresses of Eligible Voters. A hearing was conducted on the foregoing motion on September 15, 1987.

The UPW argues that disclosure of the names and addresses of employees in bargaining unit 10 is contrary to the provisions of Section 92E-4, Hawaii Revised Statutes [hereinafter referred to as HRS]. Section 92E-4, HRS, provides as follows:

Limitation on public access to personal record. No agency may disclose or authorize disclosure of personal record by any means of communication to any person other than the individual to whom the record pertains unless the disclosure is:

- (1) To a duly authorized agent of the individual to whom it pertains;
- (2) Of information collected and maintained specifically for the purpose of creating a record available to the general public;
- (3) Pursuant to a statute of this State or the federal government that expressly authorizes the disclosure;
- (4) Pursuant to a showing of compelling circumstances affecting the health or safety of any individual.

UPW contends that the Board's proposed disclosure of the rules does not fall within an exception to the statutory prohibition against disclosure. The UPW additionally contends that the National Labor Relations Board's [hereinafter referred to as NLRB] policy to release the list of eligible voters and their addresses, known as an Excelsior list, is based upon a rule adopted subsequent to its decision in Excelsior Underwear Inc., 156 NLRB 111, 61 LRRM 1217 (1966). The UPW argues that there is no corresponding rule adopted by this Board.

In response, the TEAMSTERS argue that the Board has the authority to disclose the list of eligible voters pursuant to its broad rule-making authority. The TEAMSTERS rely upon Administrative Rules Section 12-42-28 pertaining to the list of eligible voters, as a basis for disclosure. That rule provides:

Upon request from the Board, the public employer shall submit to the Board a list of names and addresses of all employess in the appropriate bargaining or optional appropriate bargaining unit who are eligible to vote, not less than ten days before the scheduled date of election.

The TEAMSTERS argue that the list being sought is not a "record" of the individual since it is not a collection of information maintained by the agency. Secondly, TEAMSTERS argue that the agency refers to the employer as opposed to the Board. The TEAMSTERS rely upon the NLRB's disclosure practice based upon the Excelsior Underwear case. The purpose for disclosure, the TEAMSTERS argue, is to ensure the fair and free choice of the employees. Provision of the list would allow the union access to information which the Employer and the incumbent union already possess and will further the Union's right to communicate with eligible voters. The TEAMSTERS also indicate that it would be unable to exercise its right to object or challenge voter eligibility without the list.

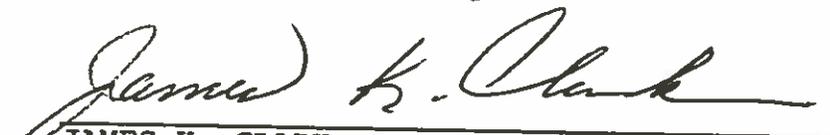
After consideration of the arguments presented, the Board finds that disclosure of a list of employees and their home addresses would be violative of Section 92E-4, HRS, in the absence of a statute or administrative rule which specifically authorizes disclosure to an individual. We do not find the

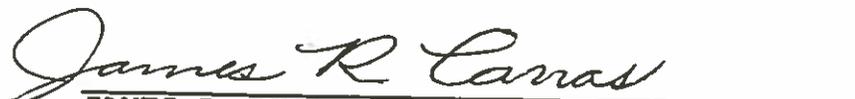
NLRB's practice to be controlling in this instance because their disclosure is pursuant to a Board rule and there is no comparable statute governing the federal agency similar to our Fair Information Practice Act embodied in Chapter 92E, HRS. Accordingly, the UPW's Motion to Preclude Disclosure of Names and Addresses of Eligible Voters is hereby granted.

DATED: Honolulu, Hawaii, September 21, 1987.

HAWAII LABOR RELATIONS BOARD


MACK H. HAMADA, Chairperson


JAMES K. CLARK, Board Member


JAMES R. CARRAS, Board Member

Copies sent to:

Herbert R. Takahashi, Esq.
Walter Harrington, DPS
Loretta Fukuda, City and County of Honolulu
Colleen Sakurai, Esq.
Lawrence Kumabe, Deputy Attorney General
Jonathan Chun, Deputy Corporation Counsel
Joyce Najita, IRC