

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of)	CASE NO. RA-13-185
)	
LORRAINE R. INOUE, Mayor of)	DECISION NO. 319
County of Hawaii,)	
)	FINDINGS OF FACT, CONCLU-
Petitioner.)	SIONS OF LAW AND ORDER
_____)	

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

On July 31, 1991, LORRAINE R. INOUE, Mayor of the County of Hawaii (Petitioner or Employer), filed a Petition for Clarification or Amendment of Appropriate Bargaining Unit with the Hawaii Labor Relations Board (Board). In its petition, the Employer requested that Position No. 2428, Park Planner/Administrative Officer, be excluded from bargaining unit 13 (Professional and scientific employees, other than registered professional nurses) as the position is a top-level managerial position as specified in Section 89-6, Hawaii Revised Statutes (HRS).

Petitioner submitted the following documents with the petition:

1. Affidavit of David K. Luke, Jr., Director of Personnel, County of Hawaii, regarding Position No. 2428, dated July 29, 1991;
2. Letter, dated September 27, 1990, from David K. Luke, Jr., to Russell Okata, Executive Director, Hawaii Government Employees Association (HGEA), requesting concurrence with the proposed exclusion of the subject position (Exhibit A);

3. Position description for Park Planner/Administrative Officer (Exhibit B);

4. Class specifications for Park Planner/Administrative Officer (Exhibit C); and

5. Table of Organization for the Office of the Director - Administrative Services, Hawaii County Department of Parks and Recreation (Exhibit D).

Based on the affidavit of David K. Luke, Jr., and all documents submitted in support of the petition, the Board makes the following findings of fact, conclusions of law and order.

FINDINGS OF FACT

Petitioner is the public employer, as defined in Section 89-2, HRS, of the employees of the County of Hawaii, which includes employees in bargaining unit 13.

The HGEA is the certified exclusive representative, as defined in Section 89-2, HRS, of the employees in bargaining unit 13. The HGEA concurs with the exclusion of the subject position and is deemed to have waived the right to a hearing thereon (Exhibit A).

In accordance with the Class Specifications, Position No. 2428, Park Planner/Administrative Officer, is located in the Office of the Director - Administrative Services, County of Hawaii Department of Parks and Recreation, and the incumbent serves as the administrative assistant to the Director and Deputy Director. The responsibilities of the position include a wide

range of administrative duties with the approximate percentages of work time allocated as follows:

1. Coordinates the development and implementation of long range plans for parks and recreation facilities; coordinates proposals and applications for various Federal and State grants; develops and presents information for the annual departmental budget and the capital improvement budget; coordinates various types of land purchases for the department; coordinates investigations, collection of data, and preparation of reports related to park projects; coordinates the work of planning and engineering consultants; reviews engineering, architectural and landscape plans and designs for park facilities; reviews and approves construction plans and specifications for park facilities, as well as for grounds improvement; writes contract specifications and reviews construction bids; coordinates the inspection of work during construction; coordinates the work of other governmental agencies and private organizations with the planning and development of projects for the department; reviews materials, reports, and other general administrative matters and drafts correspondence for the Director; reviews requests by various Division and Section heads and identifies problems, pertinent information, or other workable alternatives (50%);

2. Supervises and evaluates the administrative staff (fiscal, personnel and clerical) in daily operations, insures proper coverage of office by reviewing all leave requests; and conducts staff meetings and in-service training (45%); and
3. Manages other related duties as required by the Director or Deputy Director (5%). (Exhibit B).

Based on these duties and responsibilities, the position is proposed for exclusion from bargaining unit 13.

CONCLUSIONS OF LAW

Petitioner has requested the exclusion of Position No. 2428 from bargaining unit 13 as the position is a top-level managerial position.

Subsection 89-6(c), HRS, specifies which employees are to be excluded from any appropriate bargaining unit and coverage under Chapter 89 and provides in part:

No . . . top-level managerial and administrative personnel . . . shall be included in any appropriate bargaining unit or entitled to coverage under this Chapter.

In interpreting the exclusionary language of Section 89-6, HRS, the Board, in various decisions, established criteria which must be met in order to justify an exclusion. In determining whether an individual occupies a top-level managerial or administrative position, the Board, in Decision No. 75, Hawaii Nurses Association, 1 HPERB 660 (1977), stated, in pertinent part:

This Board believes that the proper test of whether an individual occupies a top-level managerial and administrative position includes measuring the duties of the position against the following criteria:

1. The level at and extent to which the individual exercises the authority and judgment to direct employees, determine methods, means and personnel, by which the employer's operations are to be carried out; or

2. The extent to which the individual determines, formulates, and effectuates his employer's policies.

Id. at 666 [footnotes omitted].

In Decision No. 95, Hawaii Government Employees' Association, 2 HPERB 105 (1978), the Board supplemented this criteria by stating:

In order to be determined to be a top-level managerial or administrative position, a position must:

(1) Be at or near the top of an on-going complex agency or major program and formulate or determine policy for that agency or program; or

(2) Direct the work of a major program or an agency or a major subdivision thereof with considerable discretion to determine the means, methods, and personnel by which the agency or program policy is to be carried out; or

(3) Operate in a management capacity in a geographically separated location, such as a Neighbor Island, and be responsible for representing management in dealing with a significant number of employees.

Id. at 143.

After a complete review of the duties and responsibilities of Position No. 2428, the Board concludes that the incumbent in the position is responsible for serving as the principal assistant in administering and directing a major county-wide program. Further, the subject position handles high level managerial duties which include a variety of administrative functions relating to personnel management, budget administration, management, and public relations. Additionally, the subject position acts on behalf of the Director and Deputy Director of the Administrative Services Division in their absence. Finally, in assisting in directing the work of the program, the position exercises considerable discretion to determine the means, methods, and personnel to carry out the agency policy.

As such, the Board concludes that the subject position is a top-level managerial position. Consequently, under the provisions of Section 89-6, HRS, and previous Board decisions, the position should be excluded from bargaining unit 13 and coverage under Chapter 89, HRS.

ORDER

Position No. 2428, Park Planner/Administrative Officer, is excluded from bargaining unit 13.

DATED: Honolulu, Hawaii, September 6, 1991.

HAWAII LABOR RELATIONS BOARD


BERT M. TOMASU, Chairperson

LORRAINE R. INOUE, Mayor of the County of Hawaii; CASE NO.
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GERALD K. MACHIDA, Board Member



RUSSELL T. HIGA, Board Member

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